

**REGION IX**  
**WESTERN STATES**  
**REGULATORY FAIRNESS BOARD HEARING**  
**TEMPE, ARIZONA**  
**MARCH 30, 2000**

MS. McDONALD: Good afternoon. Thank you for coming. This is the Fourth Regulatory Fairness Board Hearing. And it is in the Region IX, which covers the great States of Arizona, California, Nevada, the Hawaiian Islands, and Guam. So we'll be hearing diverse testimonies about things happening in this Region.

We have a very excellent panel of leaders who are Regulatory Fairness Board Members. We'll refer to the program as RegFair for short. I'm Gail McDonald. This may be your fourth hearing here in the Region, but it is my first. I'm the new National Ombudsman. Aida Alvarez, the SBA's administrator appointed me a month ago. It's a great privilege to serve in this position.

I come from a small business family. Someone was asking me earlier in what kind business my family was involved. I told him "all kinds of businesses". My father loved starting small businesses. My mother loved pursuing them. But about every seven years they tried a different one. So, mainly they were in the business of transportation, car dealerships, fixed based operations, little airports, and training centers.

As an adult, I worked for both state and Federal Government. I'm proud to say that I was involved with Vice President Gore's reinventing government initiatives. And it is that program that brought me to this program. The reinventing government initiatives have been part of the push to create this important law, these boards, and this outreach voice both for small business and to small business

So we're very proud of this program in the Clinton Administration. And, it is an honor for me to be serving in this role. Today, of course, I'm here to learn. All of you are the stars, and our Board Members should be given credit for their role in running this program. I'm privileged to introduce Bruce Raden, who is Senior District Aide to Congressman John Shadegg. Please stand up. Thanks so much for coming.

If other representatives come in, we'll introduce them as well. I'd like to introduce our RegFair Board Members. Our Chair is Kathy CHAVEZ NAPOLI. Kathy, would you like to say a few words?

MS. CHAVEZ NAPOLI: Welcome. I'm really glad to be here. I'd like to share just a little bit about myself and let you know that I am a small business owner in Silicon Valley, San Jose. Maybe you've heard of it. My husband and I started our business when we were eighteen and nineteen, twenty years ago. So, I was very young when I entered into this business.

I think it's very important that we have these kinds of hearings so that we can hear from you, the industry, and the Federal

Agencies. So I'm very happy to be here. And with that, I will introduce you to Tom Guthrie, who is another Regional Regulatory Fairness Board Member.

MR. GUTHERIE: Good afternoon. My name's Tom Guthrie and I'm from Las Vegas. I'm President and CEO of Southern Nevada Certified Development Company, which is a SBA lending organization. We also administer the SBA's Women's Business Development Center Program as well.

I have worked on the issues involving regulatory reform for small business for many years, eighteen years as a matter of fact. Passing of SBREFA was probably one of the most important pieces of legislation to date for small businesses.

And being here as a Board Member is truly important because SBREFA allows us to hear from small business owners and the problems that they're confronting on a daily basis in the trenches working with the Federal Agencies.

And we're happy that you're here and look forward to hearing your testimonies today.

MR. CERBONE: Like Gail, this is my first Board Meeting. So I'm just here to listen and learn. I'm President of Travis Morgan Securities based in Irvine, California. It's a small business. We primarily raise Money for small businesses in the proper market arena.

We're very sensitive to the issues that involve small business, and this is a great opportunity to be more of an activist than passive. And this Board, and Boards across the country are very important.

It's important that we listen and learn from your experiences. I'm very pleased to be here. I look forward to listening to some of your little difficulties or impediments to business.

MR. TSENG: Good afternoon. My name is C. K. Tseng. I'm the owner of Norvrich Travel Service Company. We employ fifty-four employees, mostly women. As to myself, I'm a small business advocate. In 1986, I was elected as a delegate to the White House Conference on Small Business.

In 1995, I was elected as the Vice Chair of the California Delegation to the White House Conference on Small Business. In addition, I serve on many other boards in the community. And I'm proud to be a member of the SBA's Regional Small Business Regulatory Fairness Board.

Since small business is the engine of our economy, you as business owners can help change the regulatory enforcement environment through voicing your concerns. Thus, we are here together with the Federal Agencies to listen to any issues you may have. So please don't be shy to speak up. Thank you.

MS. McDONALD: Thank you. I want to introduce the members of the SBA family. SBA in all of its programs and branches supports the RegFair program. And we are indebted to people in the Region for making these wonderful arrangements.

So I'm pleased to introduce our Regional Administrator, Viola Canales.

(APPLAUSE)

Let me also recognize Bob Blaney, also our host, the director of Small Business Development Center, Michael York. Michael, thank you so much.

(APPLAUSE)

Before we begin, let me point out that in your packet you have an executive summary of the report that we send to the Congress each year. If anyone really likes to read the entire report, we can make it available to you. We're very proud that you were able to meet the deadline of February 29th.

You also have a short brochure in your packet that tells you about the history of the program. In addition, there is a form that needs to be completed and returned to us. We also have a RegFair card. We hope you'll pass it on. We want small business people to know about this program and to participate with us.

Further, we generate our RegFair report, which is a monthly newsletter for our constituents. And, as I said, we're always open to your suggestions. So please read these things and give us your feedback.

But mainly, today we're here to hear from you and I'm delighted that we can begin the program. And I'm turning it back to our Chair, Kathy Napoli.

CHAIR CHAVEZ NAPOLI: Thank you. And what I'd like to do is just call the meeting to order. So let's begin hearing your testimonies. I'd like to call Joe Dean to give us some information.

MR. DEAN: Thank you Madam Chair, and Board Members. Welcome to Arizona on behalf of Governor Jane B. Hull. I'm the Governor's Small Business Advocate and Director of Economic

Development for the State of Arizona. We appreciate you taking the time to come here and talk about some of the issues that we have concerns about small business.

There are four areas. The first area is about the special interest groups and citizen enforcement actions. This is an area that the Federal Government allows citizens and special interest groups to bring charges, complaints, court actions, or threats of court actions against businesses for alleged infractions of laws and regulations.

The EPA has been one of the largest users of the special interest groups in bringing charges against companies in the state of Arizona. And in effect, virtually creating an extortion situation where the company can either face atrocious fines on issues they knew nothing about or were in violation of, knowingly or unknowingly, and have no choice, but to have to negotiate with these groups. And end up paying money to the attorneys representing the groups as well as to the Federal Government.

It's one thing for the Federal Government to bring charges against somebody. There is quite another where for personal gain, corporate gain, lawyer gain, political or notoriety, organizations are allowed to bring forth charges against companies for alleged infractions.

We believe that this is inaccurate, incorrect, and unfair and certainly does lead to some extortion cases that are handled by the Federal Government on behalf of the citizens of the United States.

The second area is that we feel the Federal Government must take every possible action to make citizens aware of new laws and new regulations as they affect small businesses and entrepreneurship. It's very difficult for entrepreneurs to keep up with all of the laws that will potentially affect their businesses.

So the point is that it should be the total responsibility of the Federal Government, when making any changes in laws or regulations, to make sure that all small businesses affected by those laws receive information and are made aware rather than holding the entrepreneurs responsible for reading numerous publications and searching the latest rules and regulations that impact their particular businesses.

The third area involves requiring the Federal Government to use electronic reporting system to a greater extent than they do now. Rather than having companies put out paperwork on a periodic or regular basis, there ought to be a safe and secure electronic reporting system so that this information can be quickly and

easily transmitted to the appropriate agency. And this would also make it easier for the agency to handle the information as it comes in.

And the last area involves several issues that we hear over and over through my office in the Business Assistance Center of Arizona Department of Commerce. We talk to about thirty thousand entrepreneurs a year on starting, expanding and relocating their businesses.

And as I go around the State, the following specific issues continually come up, that entrepreneurs feel that should be changed or abolished. The first issue is estate taxes. And I won't go into the details on each of these. They're obvious and you've heard them over and over again.

The second one is allowing equal deductibility for insurance premiums, whether it's for a major company, a small business, an individual who has to pay his/her own insurance, or any other form of health insurance. If one can take deductibility, all ought to be able to take deductibility.

The third issue is reducing capital gains levy that significantly affects small businesses as they change hands from owner to owner or family to family, and liberalizing the depreciation schedules for small business. And the last would be to improve the Internal Revenue Service's criteria for independent workers.

The twenty questions in many cases are very difficult to understand and difficult to interpret, and do cause a lot of pain and suffering.

And I'll be happy to answer any questions you have. We do have a handout on the material that I've provided. Thank you very much.

MS. McDONALD: Thank you.

MALE VOICE: If I might, there's one other point to make. All of your testimonies will be made available to the public through our website. In addition, we will bring the issues covered in your testimonies to the attention of your Members of Congress and Members of Congress throughout the Nation when they're looking for issues of importance.

Today, we will first hear your testimonies, and then we will begin working with that, so that we can come up with new recommendations as well as evaluation of Agency performance. But we'd want to make sure that, to the extent we can, we leverage your time here, which we know is very valuable, to make sure that your voice is heard by the rest of the Federal Government .

MS. McDONALD: Does anybody from the Board have any question to Joe?

MR. GUTHERIE: I've known Joe for a few years now and he is doing an excellent job here in Arizona. And we try to duplicate a lot of what you've already done in Nevada. So we don't have to reinvent the wheel. You've created it and you've done an excellent job.

MR. DEAN: Thank you, sir.

MR. GUTHERIE: Can you give us an example on the first point with the Federal Government, allowing agencies to utilize a program encouraging citizens with special interest to bring charges against businesses? Can you name an agency or rule that allows such groups to bring these charges?

And secondly, can you give an example of small businesses. I've seen this being used in cases of large businesses, utilities and things of that nature.

MR. DEAN: Sure, Mr. Gutherie. It has gone through the Federal Courts recently, and they have pulled back a little bit on the EPA's use of this program. The most egregious example that I've seen was thirty-two or thirty-five cases here that I was aware of in the Metro Phoenix area couple of years ago. For example, an organization here was going around determining whether or not a single page form, indicating whether there was diesel fuel on the property, had been filed with the State Office of Emergency Preparedness. It's a Federal requirement that it be filed there.

This organization conducted a survey to identify the names of those thirty-two or thirty-five businesses. And then it would contact these businesses, through an associated law firm in Tucson, by sending out a letter indicating that they had identified the small company and they had discovered that this single page form was not on file with the State Office of Emergency Preparedness.

The fine for failure to file such a form was twenty-five thousand dollars a day. Then it was up to these small businesses to decide whether to settle or go to the court. One company here, unknowingly, had failed to file the form for two years. Another company had hired a professional consultant to make sure all of their EPA regulations were covered and that consultant had also failed to identify this problem.

The small businesses decided to settle. And the law firm in Tucson was making money on this, but the organization bringing these charges against small businesses was prohibited by law to

make money on it. There was something really strange going on here. The companies would have to settle with this kind of things. And oftentimes it included not only a monetary settlement, but also an agreement to do other things, like provide extra transportation for some groups or whatever.

That's one case. In another case, also involving the EPA, a well-known and well-documented fire had occurred here in an electronics plant. Two years after reaching settlement with all of the agencies, City, State and Federal Governments, one of these organizations went back to the EPA and generated more charges against the company. The company had been sold, completely changed hands, changed properties and was relocated. And the EPA, through the suggestions and pressures of this organization, had gone back to the now new company and insisted that they clean all the ducts in an area of about one mile around where this fire had occurred.

And at the same time the EPA's own regulations does not require that ducts to be cleaned in homes, unless there is a construction or other major reason to do that. Then you create more problems and more hazards than you solve. In this case, the small business agreed to settle out of court. This organization was very close to going out of business because of these kinds of pressures.

Those other thirty plus small businesses also were pressured by this organization. It's not right. If you need to file something, you need to file it. There's no question about that. If you're in violation, you're in violation. But don't allow a citizen group or a special interest group to gain from harassing businesses.

MR. GUTHERIE: Is there a specific law or a regulation that allows such private citizen groups to investigate small businesses?

MR. DEAN: Yes, there are regulations with the Federal Government that allow it.

MR. GUTHERIE: Within sight of EPA?

MR. DEAN: yes, however, the Federal Courts now have pulled back a little bit on the use of that first case where they were going around doing searches.

MR. GUTHERIE: Uh-hum.

MR. DEAN: They still do it, but the Federal Courts have put a few throttles on them. But it needs to be removed. This is not



the right way to do this. I have no problem at all with identifying violators. No problem at all with settling the violation. I have problems with personal gain by the citizen groups.

MR. GREINER: Actually, one of the companies that you talked about, without disclosing its identity, has previously contacted our office. And I think one of the issues we're talking about is more of a statutory issue and that's the citizen's suit. And the other part is certainly the regulatory and the coordination.

And one way that the Board was trying to address that in this year's recommendations was calling for the Federal Agencies to do much more. Actually it hits on a number of the points you raised. Do much more to coordinate with the State and local government. For example, speaking of the reporting requirement, a couple of years ago in Minnesota a company did everything it possibly could.

They worked with the State EPA. They worked with the local Fire Marshall. But unaware of this Federal reporting requirement, this company was found in violation of a reporting requirement. The State of Arizona had settled this case. And I think one of the things that we took EPA to task with is why is this coming back to life as far as the EPA is concerned.

As opposed to the court case, if EPA doesn't have any authority over, we understand that may be more of a congressional issue. We addressed two issues here. One was the recommendation that this coordination has to be a priority. And the second is we're working with EPA and a couple of other agencies on trying to discern ways to reach small businesses more efficiently with these regulations. And certainly, even with regulations that are changed. Because if you don't know what the requirements are, even if you're trying and you're reaching out to your Fire Department, you're really caught off guard. And it's the gotcha mentality that this Board is all about trying to fight.

But it is not about gotcha. It's about compliance. What we are looking for is reasonable compliance without the Draconian side effects.

MR. GUTHERIE: And I'd also make another point, that EPA has a pilot program that initiated a couple of years ago through the SPDC program for assisting and working with small businesses with the reporting requirements. So that they become aware of the regulatory issues and reporting issues for EPA. And in our State of Nevada, through the SPDC program, this new EPA program is working very well.

MS. McDONALD: Regional Administrator Canales, is there any way that SBA could publicize the new laws and changes in the laws through its website for the small businesses?

MS. CANALES: I would have to check on that. That may be more of an advocacy. I know that with the SBA, we want very much to get everything online. MS. CHAVEZ NAPOLI: Okay. All right. Thank you. Now I would just add that we have experienced that in the Northern California, where I operate an auto dismantling business. And so we are very much regulated by the EPA as well.

There were those dismantlers in the Northern California, who were sued by the special interest groups and they did have to settle. These companies who didn't even look to the SBA, and didn't know where to go for advocacy, ended up settling just so that they could stay in business. And in addition, they imposed additional compliance requirements on these small businesses that were not in the legislation.

So we're very much aware of that now and we're trying to get that information out to the industry in our area. So it's very helpful to have people who are championing the small businesses on these issues. So thank you very much.

MS. McDONALD: If there are no other questions, I'd like to call Gary Barnes. You're from the Community First National Bank.

MR. BARNES: Yes that's correct. Madam Chairman, members of the Board, good afternoon. My name is Gary Barnes. I'm with Community First National Bank, and also a member of the National Advisory Council to the United States Small Business Administration. And it's in that capacity that I am here today.

I've been asked to read a letter from a small business by the name of Prescott Brewing Company from Prescott, Arizona. The author is Roxanne Neilsen. And Ms. Neilsen writes as follows. My many concerns are the following: Number one. Requiring me, as a restaurant owner, to monitor my employees tipping amounts.

IRS can legally audit my business and assess additional FICA and Medicare taxes on me, the employer, on what it deems unreported tips by my employees without ever auditing the employees. Annual Form 8027, which is required yearly, is a pain to fill out. And ultimate responsibility of under reported tips falls on the employer. Restaurants are the only industry that must comply. No one monitors the millions of under reported tips by cab drivers, hairdressers, bellhops, motel cleaners, and etcetera.

The only reason that restaurant industry is targeted is because so many restaurants have more sophisticated in-house computerized

systems that make tracking easier for the IRS. I do too.

My second concern is in reference to raising Federal Minimum Wages. Congress doesn't realize that entry-level jobs are just that, entry level.

A large percentage of the people hired by the restaurants, have no experience in the job market whatsoever. Most people earning minimum wages are not family people who are supporting spouses and/or kids. Many are even part-time students who are not attempting to earn a living wage.

And item three, INS regulations are also burdensome on small business. Documentation of legality should not be on the backs of employers, nor should we be required to do the even more time-consuming task of the Federal New Hire Reporting responsibility. Although my payroll service does this, they charge me for each new hire person for whom they must report.

Item four, reporting and payment of Federal Excise Taxes on a biweekly basis for our beer production is excessive. I would think that quarterly reporting and payment should be sufficient. Hope the meeting goes well. Thank you for thinking of us. Signed, Roxanne Neilsen, Prescott Brewing Company, Prescott, Arizona. Thank you very much.

CHAIR CHAVEZ NAPOLI: Thank you. Do we have any questions from the Board? Thank you. Now I would like to call Andy Gordon from Arizona Multi-Bank.

MR. GORDON: Good afternoon distinguished panel, small businesses, and small business advocates in the audience. I'm President of Arizona Multi-Bank. We're a Community Development Financial Institution certified by the U.S. Department of the Treasury.

We did our first loan in 1992. And now we've done over fourteen million dollars in loans over two hundred and twenty projects. We are totally privately funded by commercial banks in Arizona with a capital in excess of ten million dollars. We have no government money at all. And I'm going to tell you a little story about how we tip toe in the area of Government money and how that benefits small businesses. Our loans to the small businesses range from five hundred dollars to a half a million dollars. We also lend to affordable housing and non-profit organizations. But by far, eighty percent of our projects are with the small businesses.

There are fifty-two million dollars in project costs, so we provide a mezzanine of subordinate debt in order to help banks tip toe into projects they might not do otherwise. We do not compete

with the Small Business Administration. We do the deals that the banks cannot do in whole or in part, or with the Small Business Administration.

The banks have really aggressively, or as you've all noticed over the past few years, reached into the small business market, where they hadn't been before. And because of that, the Arizona Multi-Bank looked for new avenues to provide access to capital for small businesses.

To explore such avenues, we conducted a deliberate and sane research project to identify how to do that. We had a discussion with Bob Blaney, District Director with the Small Business Administration. He introduced us to folks in the investment division of the Small Business Administration, and encouraged us to look into a small business investment company.

That we did. And probably the end of the story is that we've now raised in excess of seven million dollars. We have formed a new limited partnership, which will probably approach ten million dollars in local funds to become an eligible small business investment company.

Now I would say we did our due diligence on the SBA as much as the SBA did its diligence on us. So our due diligence really produced a very capable agency. I haven't dealt with other divisions, but the investment division is made up of practitioners who understood equity, and understood how to put a project together.

SBA also conducts, before you even get your license, a training program on the rules and regulations, which is an excellent program to find out where you're going to, and what's ahead of you so you can perform accordingly and make it as easy as possible.

Also I think the SBA has done an excellent job by informing us up front on what we have to do right. They monitor our reports closely enough but not kind of like a gotcha type of approach, which is very good in my opinion. And you can take corrective actions afterward.

But the important thing is that SBA is very proactive in educating us to be an effective small business investment company. We were delighted this summer when President Clinton made his tour on the new markets initiative. He came to Arizona last July to announce that we were the first to submit application to the Small Business Administration under the new markets initiative.

And we're looking to reach out into the community, where folks

have had challenges before. The new markets initiative is a tremendous initiative to induce SBICs to reach into rural areas, low and moderate-income areas, and Indian communities.

The question for the Federal Government is how can you respond quickly to the changing needs in the community? What I mean is that there is a tremendous demand now for small business investment companies. And I don't think staffing has changed accordingly.

For example, the number of people you have in legal divisions to review such applications are limited, however, they try as hard as they can. They've been very responsive. So the question for the Federal Government is how can you increase or decrease your level of staffing with the changes that are taking place in the market? That is the challenge to how to be really reactive to the market place now.

So licensing does take time. We submitted our application on the February of the year before.

So the process is slow and it's not just the Federal Government, it's us raising the capital and so forth. But the idea is how could we make this process more efficient? For those of you who aren't familiar with the Small Business Investment Company, under SBIC Program for every dollar we raise locally it gives us the ability to raise two to three dollars of Federal dollars.

So the ten million dollars we raise creates a thirty million dollars of funds available to small businesses in Arizona. So those are the things that we would like to see happen. And I can only say the staff and the relationship with the Small Business Administration has really been tremendous.

The only guarded complaint I have is that SBA is not sufficiently staffed to respond to all the needs that are out there for small business.

The other area is that we try to reach into rural communities in Indian country. We have seen the entitlement communities, in large metropolitan areas such as Phoenix and Tucson, have dedicated Community Development Block Grant money to enhance lending to small businesses. We have also seen that the State has taken a tremendous initiative, under the State Department of Commerce who manages the CDBG money, for other areas throughout the State, to enhance programs on loans in rural communities.

So they put guarantee money out there for Lawrence, Arizona; Apache County, Arizona; Yuma, Arizona; or Tucson, Arizona. So the CDBG program is a good way to enhance or encourage lenders to lend

in the communities without using CDBG money for administrative support.

Because the loan program is privately run, the enhancement requires very little administrative costs. The Small Business Development centers in most of our community, we call it a community lending program, where they're enhanced by Community Development Block Grant money, are required to go through a training program.

And in many cases, if not in all cases, Small Business Development Centers provide entrepreneurial training for small businesses. The last area is probably micro loan program. We have a good partnership with the Self-Employment Loan Fund program, (SELF). This program provides loan ranging from five hundred to five thousand dollars to small businesses.

There is also Women Business Center, which is supported by SBA. And that has been a way to reach the community that we could not reach in any other way. I promised the last one was my last point. I suppose, my final point is the Community Development Financial Institution. It's a tremendous initiative of this Administration under the U.S. Department of the Treasury, who provides to the small businesses access to capital through worthy non-profit community development corporations in the community.

Being a new agency, I think they're just getting the kinks out. A lot of paper work is involved and a lot of data is required in order to be eligible for funds and technical assistance support. Although their over cautiousness, is hampering the delivery of those dollars to appropriate agencies in a timely fashion.

I believe it's a very worthy initiative. I hope it does continue, as I suspect, it will. That is my final remark. I promise. Unless you have questions.

CHAIR CHAVEZ NAPOLI: Thank you. Viola, you had a comment or a question.

MS. CANALES: I will also say that on Tuesday I was in Fresno with the point person of our financial department, Charles Hansey, in a round table discussion with people from other agencies and foundations on how best we could meet the equity gap in rural areas.

And so we're thinking of maybe credit unions and more SBICs and more community banks. And one of the things that is going on is with the bank mergers. A lot of big banks that were out there in the rural areas are no longer there. And that leaves the SBIC

program to fill the voids.

And yes, we do have a staffing issue. But venture capital is a key for the SBA and it's never been as successful. But there is a delay. I remember just the other week I gave a license and it has been in the mix for two years. So you're not the only one.

MR. GUTHERIE: And I guess that was going to be my question. When did you submit your application to SBA?

MALE VOICE: Don't get me wrong. The process of developing SBIC has a certain gestation no matter what.

MR. GUTHERIE: I'm familiar with the program. I'm very familiar.

MALE VOICE: Oh you are? Okay. So you know that it does take a long period of time identifying your investors, getting the partnership agreement negotiated and so on.

MR. GUTHERIE: Absolutely. But did I hear that from the time that you submitted your application it took you about a year and half, maybe a two year process at the outside?

MALE VOICE: I think if anything, we'd probably maybe even shorten that process. We probably went in February of ninety (interposing)

MR. GUTHERIE: Last February.

MALE VOICE: I'm looking to Mike Shields who's part of the general partner of the new SBIC called Magna Capital.

MR. GUTHERIE: And I wanted also to say that, when we talk about SBA, everybody has to be very conscious of the fact of just how much their budget has been cut over the years, and also realize that SBA has been doing substantially more with less. When the Clinton Administration came in, Erskine Bowles, a SBICs and venture capitalist, was chosen to become the Administrator of SBA.

And he went from there over to the White House to be the Chief of Staff. And he brought in a gentleman by the name of Wayne Florin, who was the Director of this SBIC program at the time. He completely revitalized the whole SBIC program to the type of program that we have today that is very successful.

There is a concern that this process takes so much longer. If you look at the default rate or the failure rate of previous SBIC in the SBIC program, you would realize why SBA is being so thorough in their processing of the applications. MR. GORDON:

Mr. Guthrie, I'd like to just interrupt you for a second. There were two points. One was the staffing who was made up of practitioners who understood the industry. And that has been a

terrific experience.

The only issue is to move things along at a faster pace.

MR. GUTHERIE: Uh-hum. Exactly.

CHAIR CHAVEZ NAPOLI: Thank you. Are there any other questions? Thank you. Now I'd like to call Peter Misra from Worldwide Technologies.

DR. MISRA: Good afternoon. My name is Dr. Reyark Nara Misra. I have been in Arizona for about eight months. I have moved here after living and running my own business in Dallas, Texas for fifteen and half years. I'm the only Indian here. And everybody's a chief. And, as it is customary, I greet you with oriental style and that is demasto. You can reciprocate in the same way. It means that I'm your servant with my full energies, with my mind, with my hands, actions, and with my heart. So, once again, demasto.

Worldwide Technologies was incorporated in Dallas, Texas in 1987. And our prime business was manufacturing of modems. We set up a joint venture in India. Joint venture means transfer of technology. And later on, around 1990 we got into computers.

One of the two, which I have personally accomplished in Region, was to participate in minority business breakfast meetings. These meetings provide to small businesses, minority businesses, as well as Federal agencies with the opportunity to meet with each of us. And I'm very proud to say that I have attended these meetings continuously over the past nine years in Dallas as well as in Ft. Worth.

And my comments will explain my part accomplishment. So without any further ado, I'll just read the statement and I'll also give you a copy. The company, Worldwide Technologies, is an authorized dealer of computers and peripherals for the brand names such as DELL, IBM, Hewlitt Packard, EST, Multi Tech Modems, US Robotics modems, Cisco, Networking Products and Microsoft software.

As a minority-owned business, WWTI participated in minority business monthly breakfast meetings in Ft. Worth and Dallas. Since 1990, WWTI has conducted business with Federal and State government agencies. These breakfast meetings are held once in a month and provide an opportunity for success both for Government and industry.

It's my intention to document both positive and negative side of business. On the positive side Worldwide Technologies has generated continuous business with the following Government



Agencies: US Department of Treasury, Bureau of Engraving and Printing, US Secret Service, Internal Revenue Service, and several other sub agencies.

US Postal Service has been a valuable customer and has saved a lot of money by doing business with Worldwide Technologies, Inc. Among State Agencies, mention should be made of three authorized dealers who provided a contract to Worldwide Technologies, Inc., and Inwood Computer Supplies back in 1994.

General Service Administration and Minority Business Development Agency sponsor the minority business development breakfast meetings every year.

Mention should be made of Electronic Commerce Resource Center, ECRC, who provide free service to web page development, e-commerce, without which a small business cannot grow. As a matter of record, during the ninetieth period, 1990 to 1999, WWTI generated at least one million tax-exempt sales from doing business with the Federal Government agencies.

WWTI assisted and encouraged other small businesses to do business with each other as well as with Federal Government. It's my pleasure to put on record that our contributions were recognized by MBDA and Certificates of Recognition for the years of 1998 to 1999 were awarded to me for providing support to the minority-owned businesses.

Now on the negative side, it's with a great regret that I put on record that opportunities were denied twice by one agency. And that is National Institute of Health, In spite of the fact that WWTI was the lowest qualified bidder. Similarly, Dallas Area Rapid Transit denied two opportunities to our company, although WWTI was the lowest qualified bidder on two occasions.

It may be mentioned that an inquiry was held and the buying practices of DART, that is Dallas Area Rapid Transit, were improved thereafter. You are welcome to borrow this report from me, which is available to study the disparity. And this was the result of our complaint to Dallas Area Rapid Transit. Small is beautiful. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you very much. Are there any questions from the Board? Thank you. Now I would like to call Cecilia Chabez-Protas from Competitive Edge Consultants. Welcome.

MS. CHABEZ-PROTAS: Madam Chair, Members of the Board, Madam Ombudsman, and all small business members. I am coming from a small business minority perspective. And I want to discuss my experience as a minority entrepreneur in this arena for

approximately over the past two years. To become a certified minority-owned firm, I visited the Minority Business Development Center, Hispanic Chamber of Commerce. There was a person by the name of Lumain Berry. She immediately extended all of the information that she thought I would need to know in order to get off on the right foot. And she helped me fill out all my applications to become a minority certified person in the City, in the State. She led me to the organizations that I needed to get involved in, like the Grand Canyon Minority Development Council.

She also helped me with filling out the paperwork for the SDB certification. And it went absolutely smoothly. And I thought I was working with an attorney as well as an accountant at the same time. So I absolutely applaud that program and want to make sure that it gets on the record. I think she'll be leaving here shortly going to London and we're certainly going to miss her. But she was an excellent advocate and resource.

Secondly, I want to talk about the SDB certification. I understand that there's no longer a certification through the National Minority Supplier Development Council that will care for the SDB certification criteria. So we have many members nationwide that are minority members that are within this organization, that now have to look for a third party certifier, and pay additional funding to get that certification. And I'm not even sure if there are any in Arizona. And if there are, I'm not sure if that has been widely known or communicated well.

So that poses several problems. First of all, it's not convenient. Second of all, it's expensive. And third of all, there's a perception that it may not be as thorough as our minority certification. And it's because we have on site visits, lots of documentation, and lots of background checking that goes on. And it's extremely thorough so you have a feeling of accuracy when you know folks are certified to this organization. So I'd like that to just be noted in the record as well.

The other component that is quite challenging to minority businesses is why there are so many certifications such as SDB, DVA, and AA. And it's like a maze. If there was something that the Government could do to streamline this process, and have just one certification to replace them all. Once you've been through the process it's just a matter of keeping it updated.

So that's the certification piece that I wanted to talk about. The other thing is that I loved this gentleman's last comment who said, " I love being small". There are so many small businesses out there that are small and love being small. I particularly came from the corporate arena. And my life has changed immensely because I absolutely loved being in the small business world.

And I have a concern with our bundling direction that we're headed. And how that is going to affect small businesses, which want to stay small and continue to be creative and innovative?

So those are my statements and I sure appreciate the time today. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you very much. Are there any questions from the Board?

MR. GUTHERIE: Being familiar with being in a little minority purchasing council, and a founding member in Nevada, we have addressed this issue for many, many years. Is there a central provider for certification? The problem is that the different agencies within the Federal Government have different programs that are not necessarily compatible with one another. For instance, for years we had no set aside programs for women-owned businesses except through the Department of Transportation.

So that was part of the reason why there wasn't a central location for certification, because not every agency recognized women as a minority business for any kind of a set aside program. I don't want to seem like I'm harping on a fact, but the fact of the matter is that the Small Business Administration has a great 8(a) certification program and that has had a great success in actually certifying companies as minority companies.

So there's not really a solution to all of this except as an advocate myself to motivate more small business advocates to talk to our Senators and talk to our Congress people about the importance of these programs and the necessity to fund these programs. If they do not hear from you directly about the importance of funding these programs, then they're going to continue to cut the programs that are most effective to us. There is one agency that is our advocate in Washington, and that is SBA, which really had this program for so many years. So I know that's not a real answer to a problem. But it's a starting point of where we need to begin.

CHAIR CHAVEZ NAPOLI: And I think we might even be preaching to the choir because the folks that are here today are the ones that are probably making sure that their voice is heard.

MR. GUTHERIE: Well this is an issue that we heard at our last Regional Regulatory Fairness Board Meeting. In Arizona we did not have any central agent. If I remember correctly at the last meeting we tried to address this and tried to see if there was something that we could do within the State of Arizona to designate a firm like that.

And I believe it was the Grand Canyon. Was that it? Maybe you could address that. Yeah.

MR. HODGMAN: We came to the last regulatory hearing, which was in Las Vegas, and Gary Barnes, our National Advisor Council Member, gave a testimony on behalf of members of the Grand Canyon Minority Supply Development Council. That testimony basically revolved around the fact that there was no third party certifier in Arizona.

At that time the agency would not reopen that application process. They did reopen that application process a couple of months later. Unfortunately, no one bothered to apply for the certification once again. And so, we still don't have a third party certifier in this State.

MR. GUTHERIE: Thank you. I think we, as the Board, tried to make some adjustments there to ask them to reopen. So I'm glad that we did but, unfortunately, they didn't reapply.

CHAIR CHAVEZ NAPOLI: And Viola, you have some additional comments.

MS. CANALES: Through this whole process, the major downside was that you tried to certify yourself and didn't make it. Then you have to wait a year. Whereas, if you went to a certifier and didn't make it, then you don't have that one-year gap. But it is an issue. And again, you could potentially self certify yourself.

On the bundling, we have had headaches regarding that because a lot of Federal Government agencies have also been downsized. So bundling works for them, but it really doesn't work for small businesses.

I want to let you know that there is an appeal process. If there is bundling and you're being affected by it, it can be appealed. And you can touch base with Robert Blaney, to find out how to bring your issue up through the Internet to the SBA. And on the point of multiple certification requirement, it makes sense doing it once and maybe add an addendum. The SBA is looking at that because it does not make any sense. And that's an issue that we're grappling with. And it's a very good point.

CHAIR CHAVEZ NAPOLI: And back to no one stepping up to creating a third party certification in Arizona, I'm not sure if we have the expertise to cultivate that type of recruitment process to find someone that can do that, or maybe train an organization. But there's got to be some other avenues other than looking at the small businesses. You complain nobody steps up so that's why we still have this problem. There's got to be other solutions.

MR. GUTHERIE: Not to interrupt you, National Minority Purchasing Council was really at the forefront of this issue for many years. And you do have an active organization here that has had that role, not in a formal sense through SBA, but in an informal sense prior to that program.

CHAIR CHAVEZ NAPOLI: And I'm just speaking from a minority small business owner perspective. Where do they go? With what has happened, how do we facilitate making that easier?

MS. CANALES: We have across the country a number of small business events. And we actually had one in Arizona, on July 12th. And they gave information on the fact that 8(a) firms are also considered to be SDB.

CHAIR CHAVEZ NAPOLI: I attended that. It was an excellent conference.

MS. CANALES: Right. And I know we had a certifier from California there. But, you could touch base with Bob as to where you could possibly go if you don't want to self-certify yourself. But on the other hand, when they opened it up, nobody applied. I'm just wondering.

MR. HODGMAN: Yes, Izzy Gonzalez from the Minority Business Development Center (interposing)

MS. CANALES: That's how I was certified.

MR. HODGMAN: Izzy was doing it for people also, but he could not become an official certifier himself. We've been trying to do it and the folks in our office are 8(a) Business development program. They have been helping people with the paperwork, so that we could provide the service for free. Obviously.

MS. CANALES: Well, that's good to know. I chair the minority businesses here locally, so if I am approached, I will definitely send them that direction.

MR. HODGMAN: Yes, they can come to us.

MS. CANALES: It's a formal process. Thank you.

CHAIR CHAVEZ NAPOLI: I have a question that I'd like to ask. You're talking about your own personal experiences and you're saying that it is expensive, it's not convenient, and it's not timely. Can you give us an idea of how much more time it takes because of this process, how important it is, and how it affects your business?

I think that's really important. When you are coming here you're

taking the time away from your business to share that with us. It's much more helpful, because it becomes a public document to make it more real for the people who are reading that. If you can share that with us, depending on what kind of resources you are using to be certified, that maybe takes you six months. That's very helpful if you can give us as much information as you are comfortable giving us.

MS. CHABEZ-PROTAS: Personally, it can take me hardly any time at all because everything that I did, I did through the Minority Business Development Center. They put all the time and effort into it and I just pretty much paid them the fee for doing those services. And that worked out beautifully.

What I'm pointing to, is that those services aren't necessarily continuing or available and changes have happened and so we're looking at a new set of requirements for our minority business owners of which I'm being a voice for. And those requirements could mean a lot more time and a lot more expenses. Especially if a third party certifier is out of state.

I know the application for SDB alone is about this thick when you're done with it. So imagine how much time and communication must take place just to get all the information in there accurately, so that it's not sent back and asked for further clarification or more documents.

CHAIR CHAVEZ NAPOLI: And I would suggest that representing other people is very important. If you can have some of the people that you represent just jot down some of these concerns that they can share with us, specifically to their business, what the inconvenience is, and what the delay in time is.

MS. CHABEZ-PROTAS: I can do that.

CHAIR CHAVEZ NAPOLI: Any of those pieces of information are critical for us when we go to Congress and report that.

MS. CHABEZ-PROTAS: And how do I find all that information from this point forward?

CHAIR CHAVEZ NAPOLI: We just happen to have people here that will talk to you. We can give you our cards or our e-mail addresses. However, it's convenient.

MR. GREINER: In the packets, everyone got the appraisal form. And that's just sort of a cover sheet. You can put anything behind that. And depending on your level of comfort, we can either share your information directly with the agency or we can summarize it in a way so they can't identify your business. And

we get them to provide you with a response.

And then the Board and the National Ombudsman have the opportunity to review the responses and evaluate agency performance. And hopefully, see that progress occur. One of the things that we've seen in this year's report, in our third report, is that agencies are being more cooperative with us than they have been in the past. They really do see that this is important. Regulatory fairness is important. And compliance assistance, and that's really sort of what you're talking about, and how difficult it is to comply when you don't even know if there's a company out there that can help you to become certified.

MR. TSENG: I have a question. Are you certified as an SDB?

MS. CHABEZ-PROTAS: Yes, I am.

MR. TSENG: You are.

MS. CHABEZ-PROTAS: I have been certified, uh-hum.

MR. TSENG: Are you certified SDB?

MS. CHABEZ-PROTAS: Yes, I am Certified SDB.

MS. TSENG: Is that the one that you cannot exceed seven hundred fifty thousand limit and thing?

MS. CHABEZ-PROTAS: Yes.

MR. TSENG: So you are objecting to go to some other consultant to get certified, is that what you're saying?

MS. CHABEZ-PROTAS: No, I'm being the voice of the organization that I'm part of. And that is the Grand Canyon Minority Supplier Development Council. I am their Chair. And it's primarily made up with minority business owners. The Grand Canyon no longer provides SDB certification. The members now have to go outside of that organization.

The other problem is there's really no need for them to even be part of the Grand Canyon anymore. So we've reached the potential of also losing members. Because they can get that certification outside and continue to do business with the companies that require the SDB certification.

CHAIR CHAVEZ NAPOLI: Okay. You had a lot of positive comments about the appraisal form, and how to set this questionnaire up. We called it an appraisal form because it's very important for us to give recognition to the agencies in the areas where they're doing a good job.

So I would encourage you to fill out that appraisal form and pinpoint the areas that are working. That way we're getting a report of some of those processes that are working so that we can ensure that they stay there.

So it's very important to give back the positive feedback also. Thank you very much.

MS. CHABEZ-PROTAS: You're welcome. And I understand the commitment of time that you give to these boards. I'm on several boards myself. So I appreciate that. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you. We have a question. Dr. Misra?

DR. MISRA: I will just make a comment on certification process. US Department of Commerce had already created a national agency called Certification of Minority Businesses. The challenge is how to give back information to every small company. And they're working through that process.

Second general comment I'll make is that I have seen several small businesses. These are small businesses that have all kinds of certification sitting there for years after years after years. And these friends of mine, certified companies have not created a dime business with anybody. So that is the other side. So certification helps you, but if you are an entrepreneur you'll find your way.

And I personally have a problem here. Our company has been certified for so long, but we are not 8(a) certified. Again as Ms. Protas explained, it takes eight months or so, to get 8(a) certification. And not having the 8(a) certification, we recently missed the opportunity to bid on a 2.5 million dollar 8(a) set aside contract with the US Department of Treasury. Our company was qualified on all of the respects except that it was not 8(a) certified. So we were not considered. Thank you again.

CHAIR CHAVEZ NAPOLI: Thank you. And Now I'd like to call Tom McGovern from Red Diamond (OPI Metal).

MR. MCGOVERN: Hello. My name is Tom McGovern. There's a little typo there. I'm with Red Diamond Metal Finishing, formerly OPI Metal Finishing. So I'd like to thank you for this opportunity to address you. And for providing this forum for us to testify and to improve the working relationships those small businesses have with the regulatory agencies.

I am a chemist and environmental manager in a small plating firm. We have approximately twenty people at this point. Five minutes is simply not enough time to compress my feelings on these



topics. But I'll try to be brief. And I'll begin with my suggestions for improvement first, in case I don't get to the other things. First of all, I think that Federal Agencies should implement some accepted quality management program to oversee the interactions.

Many of us that are in small business know what the value of having a quality management system is. So, you have all your employees on the same page. You've got proper documentation. You're not sending people to your customers that are trainees and maybe do not represent fully the feelings of the agency.

And I would want to see no exceptions and no grandfather clauses to this. No local home rules where some agency would be exempt from participating in such a program. We need to get the business language into the Federal language. So quite often, words have entirely different meanings to a businessperson and to a regulatory person.

Secondly, I believe either we have to get the assistance side of programs and the assurance side of programs on the same page, or I would suggest we eliminate the assistance side and assign all people from assurance to assistance side.

And third, I'm going to make kind of a wild statement. I'd like to see environmental managers' salaries and these types of reporting requirement duties that small businesses are assigned to some sort of tax-deductible status. I believe small businesses are looking for tax breaks. And this could be something that would make the greens and the environmental people happy, as well as make businesses happy. I basically don't work for my company. I am a glorified secretary for the Federal Government. I fill out forms. I interact with agencies. I am not productive to my company.

As a chemist, my duties are that when I'm operating in this other field I'm working for the Federal Government. So try to keep these points in mind as I go through the evidence. And first I'd like to look at the; actually the second point first, which is the compliance assistance and getting the assurance people sort of on the same page.

To better explain as to why there should be sort of management system for an overview, I would refer to my experience with Maricopa County Air Quality Division, an environmental resources program, which applies the EPA air quality.

And first of all I would recommend that these people give you a cover sheet when you first deal with them. You get this from some agencies. You don't get it from Maricopa County. If such a

document exists, I didn't get it. And this is sort of evidence why you need a management system to begin with.

So that when you're dealing with every customer, every applicant, that every applicant is treated fairly, and has the same check list of requirements to pursue. And then as you're going through the various items everybody knows all along what's happening.

Quite often you'll have a meeting with the assistance side of the group and everyone is cheerful and smiling and we're exchanging data and then you talk with the assurance side and it's like gotcha.

I even had one engineer at Maricova County saying to me, "you have no right to expect to talk to an engineer". And I was completely appalled at this concept because as far as I'm concerned he's my employee. My fees, my taxes pay for this person's salary. And to say that I have no right to talk to him is; I'm speechless. So I just let that one go.

So we either have to get them on the same page with the language they're talking about or, in terms of budgets within these counties, they're saying well we don't have enough money to run our program. All right, if you eliminate the assistance program per se and get your assurance people as assisting the customers, you have everyone productive.

An engineer, who's going to be examining a permit, will not be in an adversarial relationship with you, he/she is going to be in an advocacy relationship with you getting the permit done.

I also had the further attempt at clarifying engineering time. As I mentioned, I have these very happy meetings with the assistance people. And I sent my three hundred and fifty dollar fee in as I interpreted. Months later I got a bill over a thousand fifty dollars.

I later found out that some companies like Motorola Divisions have cleverly cut their divisions into smaller groups, they are still huge corporations, and are only paying fifteen hundred dollars. I'm a small business paying ten fifty. And as I jokingly say when I go to the grocery store I like to pay for my groceries, not my neighbors' groceries.

So, there's a lot of talk within Maricova County itself for redoing the fee structure. That I think it should be even more severe. That if you are under the two time limits, it should be a zero cost permit. Like a zero discharge permit at the water department, there's no fee. If you move to the next level where you're actually discharging, there is a thousand dollar, roughly

the type of fee that everyone pays.

Unlike the Water Department, the Air Quality Division has some tragic problems. They lack funding. They're attempting to run the entire department on the fee structure, whereas certain portion of the water bill is diverted to salaries.

Therefore, the inspection department and the compliance department have sort of slush fund and other monies that they can draw upon. Even for infrastructure, for all these telephones, etceteras. So somehow we have to get more funding to the county to look at this type of issues.

Either gets the Board of Managers or whoever, the EPA, somehow get some more funding to the county. And also back to engineering time, and the cover sheet, had someone sent me a cover sheet saying that my interactions with engineers will be costing me seventy dollars an hour, I would have done a whole lot more paper work up front.

My boss basically pays me a salary. And if I have fifteen projects to do, or twenty-five, it doesn't matter; I'm going to get the same salary. And if I have to spend more time on one that's eventually going to save me money it's in our interest to do that.

I found I was being charged for a lot of engineering time and I got several sheets of paper and to me it was a paucity of information. And certainly wouldn't be worth a thousand dollars or seven hundred dollars additional cost. From a small business aspect, we could do more homework on our part in order to keep our fee structure lower.

Now of course my experiences with the department all have been ruined in a sense that I have to start from square one with an inexperienced person. This is also further evidence for having a quality management system where you have proper training. If you're sending trainees out, then have the business pay for that person's training through the fee structure.

A more experienced person might have been able to just look at my permit and say oh, very well. It's well below the limits and we'll sign you off for three hundred and fifty dollars. Thank you very much please.

That's pretty much it. I could go on and complain but try to keep those three things in mind. And in going back to the environmental manager's salaries being tax deductible and if there are any lawyers or accountants in the office I'm sure you're sort of chaffing at the bit thinking well why can't we do that as well.

This may be something to think about in giving breaks to small businesses. That portion of the activities of the business that deal with Government interface, let's try to get some abatement. Tax credits are nice, tax deductions are nice, because it's a way of giving us money without giving money because we can spend it elsewhere more profitably.

So that pretty much concludes my remarks and I thank you again for inviting us here.

CHAIR CHAVEZ NAPOLI: Thank you. Are there any questions from the Board?

MR. GUTHERIE: I'd make a quick comment. One of the things that we're trying to do here with our Board, and has always been, is to delineate what are State issues, what are Federal issues. What is a county issue or a city issue and what we're doing on a Federal level.

Most of us here on the Board have worked in our States to create regulatory fairness legislation on our State level to address exactly the inconsistencies in the local government. We were very successful in Nevada last legislation session of getting a piece passed. And we look for our Governor to issue an Executive Order to upgrade that piece of legislation.

And then at the next legislative session will go back again and hit them for some more regulatory reform issues for small businesses. And I think that is another issue that has to be addressed here with inside of your State to be able to unify and look at how you can get State regulatory reform legislation passed on this level to address some of those issues.

MR. McGOVERN: I was aware of that. But in a sense they are applying the Federal programs. And so I'm sort of alerting you to what we experience when we interface with it. And I want to say, when I dealt with the Water Department, I walked away with a very good feeling.

And it was kind of shocking to see that another agency was very adversarial, less informative, and more confrontational in dealing with the application.

MR. GUTHERIE: On another quick point, under Vice President Gore's effort to reinvent Government, OSHA with combining the assistance and compliance people, shifted the focus from penalizing small business to providing timely assistance to the small business on compliance matters.

Unfortunately, we haven't been able to do the same throughout

every single agency. But at least it was the first big step that we took addressing exactly what you're talking about. How do we take the assistance and the compliance and put it both together?

MR. GREINER: I think one of the things you may want to consider is filling out the appraisal form. We've basically let every Federal Agency know that where they have an intermediary, be a private company or another level of Government, take action on their behalf that the Federal regulatory fairness requirements attach. And so we'll hold EPA responsible, if Maricopa County is doing their work. So I certainly urge you to fill out the appraisal form. We'll go through that and work with you and certainly work with EPA. We told every agency if they have an agent to do it for them, then every agency should inform small businesses of their right to comment, so that there would be some type of accountability. As you talked about, accountability and quality management are important parts of government reform. You have to have feedback and you have to have that feedback make a difference in practice. I would expect that in the future you might have some comments on some Federal agencies like OSHA or EPA.

CHAIR CHAVEZ NAPOLI: Are there any other questions? Thank you. Now I'd like to call Don Richardson from Aspen Communications.

MR. RICHARDSON: Ladies and gentlemen of the Board thank you very kindly. And to the Small Business Administration, and fellow entrepreneurs, thank you for giving me the opportunity to come down and appear before you. I am one of the Presidents of Aspen Communications. We are a small business in Northern Arizona servicing the top six counties.

We provide communication services, computer telephony, integration, and cabling, especially power. We also operate on the Hopi and Navajo Reservations in Northern Arizona. And we employ people from both of those regions. In March of 1999, my wife and myself made the decision to open Aspen Communications.

In July of 1999, we met with Mike Lainoff, the Director of the Small Business Development Group in Flagstaff, Arizona. We worked with Mr. Lainoff and John Keegan on helping to prepare our business plan. And after we made sure that we were in a very good shape, we proceeded to seek a lender.

And we worked with the First State Bank in Flagstaff. At that time, we did not know that we were kind of the pilot case for small business loans that the First State Bank was experimenting. When we met with First State Bank Loan Officer, we were apprised that the loan to small business would take approximately three to five weeks.

Last week we received our approval from the Small Business Administration. After meeting with the bank, we did attempt to meet with the Small Business Administration people in Phoenix. And we were met with a rather brusque reception. We were told that we were not to deal with the Small Business Administration in any way and that we were to deal directly with the lender.

Subsequently, we met with the lender, and submitted our package. It took us less than one week to complete our loan documentation. And three weeks later we found out that the loan package had not left the bank. The loan package then apparently went in. And we continued our operations.

We received some interim financing from the bank. And proceeded with our business. In November, we heard from the Small Business Administration, again through the loan officer, and were told that we needed additional information, balance sheets, income statements and cash flows, which we did provide at that time.

In December, we exhausted initial funding from the bank. And meanwhile we had more requests for additional information from the SBA, again through the lending agency, which we made every effort to comply with. On January 9<sup>th</sup>, we were informed that the loan application package that we had initiated, was for a startup business and no longer applied and that we had to reapply as a business in progress.

So dutifully we went through and proceeded to try to put all the paper work together and we submitted that. To make a long story short, by February the 8th, we received another request for more information from the Small Business Administration, again through the lender. Feeling that we had no other recourse and no access to the Small Business Administration, we wrote a letter to Senator John McCain.

The response was immediate. We were contacted immediately by the Small Business Administration the following Monday. We had Mr. Jerry Dukakis and Chito Fernandez entered the scene and came to our office in Flagstaff.

At that time things started moving very quickly. We were asked to submit a few accounting documents and some other information, which we did. And in only a few days, we had approval for the loan. At this time we're waiting for the bank to fund the loan. So we're still waiting for that piece of it.

I do have some suggestions that I think might help other small businesses obtain loans. First and foremost is identifying a qualified lender. In this case perhaps we should have done more research. But we selected a lender who had little or no

qualifications with a small business development.

Second, I think that if these banks are going to be working with the SBA, there needs to be creating a comprehensive training program for those lenders that want to participate. Third, I highly recommend the use of Small Business Development Centers, as the one in Flagstaff, as a training group for new businesses.

The help we received from Michael Lainoff and his staff was outstanding. The people were very helpful and gave us a lot of good information. On our behalf, when we're looking to new businesses I think new businesses need to have a seasoned accountant to set up their books. We, in our case, did not have that and I had to go back and rebuild our books.

The other thing that I believe happened here was that there was a personal dispute between the loan specialist at the Small Business Administration and the lending institution loan officer. I really believe that caused a great deal of delays. And I think that punitive actions against a bank that harmed the people that are trying to get the loan are very counterproductive.

I think there should be an avenue for the client to contact and interact with the SBA in cases such as ours to divert such actions as our letter to Senator McCain. When I was contacted by Mr. Jerry Dukaksis and Chito Fernandez things worked very well. Had I had the access to talking to Mr. Dukaksis ahead of time, I think we could have averted a lot of problems, a lot of delays, and a lot of heartache.

I'd like to take the time to express my appreciation to Mr. Fernandez and Mr. Jerry Dukaksis and to Mr. Bob Blaney for coming to our aid and helping to bring this long story to the very successful conclusion. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you. Any questions?

MS. CANALES: The reason that we are here is to help you, businesses like you, and entrepreneurs like you so that you can start, grow, and succeed. But you experienced something that you should never have experienced. And I am very sorry. And I say that on behalf of the SBA.

Because I think that you know, especially with small businesses, that timing is very important. What I would like to suggest is the following: Arizona District Office is one of the best offices in the nation. That does not mean, however, that it's perfect. That does not mean that people at the SBA don't have bad days. It does not mean that some of the loan officers may be not fully trained, all right? So you should not have been treated the way

you were. I think that if you had called Mr. Blaney and if you had known his direct line, he would have helped you. And I will give you my card.

I am a political appointee and as you know, most of us have taken a big pay cut to become public servants. And we do this not because we need a job but because we believe in what we do. And I just wanted to apologize and we want to do a better job. And this should never have happened to you. And I want also Bob to make a remark.

MR. BLANEY: I'll be happy to. Mr. Richardson, it was around February 9th, when we received the letter that you had sent to Senator McCain. And I believe, I don't have my calendar in my pocket, but it was like a Thursday or a Friday, and on the following Monday Jerry Dukakis and Chito were up in your offices to resolve this problem.

There was a problem with the lender not submitting his loan to us. I believe that the lender indicated to you that they might have submitted the loan for us. We had not seen it. There was a problem with generally accepted accounting terms and the procedures. But when we were able to take a look at this loan we spent a lot of time and a lot of effort and a lot of employee effort by sending people up to stay overnight in Flagstaff, etcetera, to resolve this loan.

It took some great creativity on our part to approve this loan which I think we indicated to you in the letter. And as you know, we had to work with the bank to restructure this loan because basically the bank had made you an unsecured loan. And they had no guarantee from us.

The bank has been through our training. We have told them that they needed to come for more. We run training every quarter. However, the State of Arizona licensed this bank. And we will continue to try to work with it. I don't know that I can go back and address all your points. I will be more than happy to submit the letter that you sent to Senator McCain with regard to this matter. And I think that's about the end of my statement.

MR. RICHARDSON: Well, Mr. Blaney, thank you very much. Once we were able to contact your office directly, things moved very quickly. And your people were very, very cooperative. We want to thank you very much.

CHAIR CHAVEZ NAPOLI: Thank you. Any comment?

MR. GUTHERIE: Yes, I have a couple of comments. As Viola knows, I've been doing this for twenty-two years as an SBA lender. And



there are stories that happened like this throughout my twenty-two years experience. As a certified development company, we have to first demonstrate to SBA that we have the ability to perform under SBA guaranteed guidelines.

I mean, in order for us to get our licenses we have to show them that we have qualified staff in order to be able to do it. I liked your recommendation about qualified lenders. And as Viola pointed out, there are a lot of really good qualified lenders out there.

And then there are some that do not deserve to have SBA status. I mean that. Unfortunately, and I say that really openly, that there are lenders out there that if they're doing these types of loans, strictly do not have the sophistication to be able to know how to structure a deal.

By that, I mean, if they're structuring an unsecured, uncollateralized SBA guarantee loan, they don't have a clue what they're doing. Because SBA has a policy that bank cannot put SBA at exposure. So, if a bank is structuring a loan, then that is not an SBA issue, in a sense, it's a bank issue. And I think that SBA needs to address that as an issue.

Just because they want to do SBA loans doesn't necessarily mean that SBA should allow them to do it unless they are truly qualified through the training programs, which you're talking about. So they have this idea about SBA, but in terms of how to structure the deal, they fall way short.

The money stores you mentioned, or some of the other lenders that are doing millions and millions dollars worth of SBA loans, have the technicians. But, unfortunately in some of the smaller areas and especially in rural areas, the sophistication of structuring is just not there.

And maybe we can make recommendation to SBA as to how we allow banks to participate in the guarantee program so that things that happened to you do not happen to other businesses. But more importantly what happened to you reflects adversely on the Agency.

So I think your recommendation is well put. And I'd like to see that really addressed in a formal recommendation to SBA, that we look at that whole issue in terms of qualified lenders. And the mandatory training programs that they have to attend in order to be a 7(a) lender so that they don't put you through the wringers like this.

MR. GREINER: We've heard from quite a few small business owners that had concerns about bank lenders. The majority of the

comments we received on SBA don't deal directly with SBA, but with the banks that they've been working with.

Congress said you're supposed to look into enforcement compliance but I know, the National Ombudsman, and before her appointment the previous National Ombudsman, have been very interested in making sure that we are a good point of contact regardless of whether we have jurisdiction. So with SBA and with a number of other agencies, in this case it's the Assistant Administrator for Hearings and Appeals, who would get your comment. I think also the District Directors and the Regional Administrators are actively looking for that feedback because these banks don't have to be re-certified. I mean the SBA can drop them. I've heard from District Directors that indeed those banks were under review and it was unlikely that they would be renewed. So I think action needs to be taken certainly in the training and the certification, and also in the firing of certain banks if they don't live up to SBA's and small business's expectations.

MR. RICHARDSON: Well, it's unfortunate that most of the information we were receiving was directly from the lenders and we were only getting one side of the story. They found out that, in fact, we were not being told the truth. And we regret having caused the SBA any embarrassment. And there was no ill intention on our part. We were just very frustrated and felt we'd been backed into a corner.

CHAIR CHAVEZ NAPOLI: Sure. Thank you very much. And now I would like to call Mike Reagan from Fast Signs.

MR. REAGAN: My name is Michael Reagan, and along with my wife Donna, we're co-owners of a company known locally as Fast Signs on Central. And it's a company that is involved in sign manufacturing and graphics design. And it's part of a franchised network of over four hundred and fifty other independently owned businesses around the United States.

Very fortunately, with a lot of pride, we over the last couple of years have emerged as the largest one in the network. About four times the national average in size. And part of being a franchise business is that you pay some royalties to a franchise in return for getting professional guidance and assistance in all types of business affairs.

And I found out that they give you a lot of marketing and promotion and advertising advice, but when it comes to management advice and how to comply with such things as rules and regulations, it's almost zero. And I think it's fair to say that as I've talked to other franchise business owners around the Phoenix area, they've experienced the same thing.

They provide very little assistance to the franchise holders, but they sure know how to increase the amount of royalties they get every year from you. As a result, I found that managing small business has become increasingly complex job.

In fact, as a co-owner I spend more of my time now, on a daily basis, performing administrative matters as compared to working on issues relating to growing and expanding my client list. For example, just in the area of human relations stemming from having a dozen employees not only is time consuming, but as one person told me, some time ago he felt that one of the virtues of being a small business owner is that you get this luxury of administering social programs sponsored by the Government, and that your role is to help support full employment in this country. And nowhere along the line, did anybody say about anything about making profits. But anyway, I didn't really believe that was totally true. But that is a big feeling that people have. Now one of the reliefs, though, that I've found to take this burden of all this administrative stuff off my shoulders is I searched around for services that were available, but I just didn't know about them.

And I was looking for professional assistance and guidance, especially in compliance with current laws and regulations that affect the operation of my business. I'd like to share just two things with you.

The first, there was a printer up the street from me who got a surprise visit by OSHA and he didn't fare too well. It was a bad day for him when it was all over with. And as a result of hearing this rather horror story, I got really worried and I started checking around to see if I was in compliance or what would happen if I ever got visited.

And so I called the Arizona Small Business Administration and I was told by them that what I should do is just call OSHA. And there was a voluntary program. And I was like blown away. I had never heard of anything like that. So I signed up for this voluntary audit and the results were just phenomenal.

Had it been for real, we would have had about thirty-eight thousand dollars in potential fines. But the beautiful part of it was that we were given thirty days in which to straighten all these things out, which we did. And now as a business owner, I sleep very well at night because the inspector not only saved us a lot of money by showing us an easy way to implement a safety procedures manual and MSDS manual and so forth. They also provided us with a lot of tips and recommendations that really positioned our company to be very sensitive to employee's safety, especially in the eyes of the employees. They can't believe that the management is that concerned.

And now it's no effort to stay in compliance. Another thing that I did was I contacted the US SBA and I had some business issues, some problems that I was facing. Nothing real serious, but they were nagging issues. And they told me that I could qualify for free counseling through the Small Business Development Center. And when you say free to me you've got my attention.

And so I submitted myself to four sessions over a period of several years when I had what appeared to me to be complex problems. And I implemented the recommendations and solutions of these free counselors. And the results were amazing. I still can't get over that I've never gotten an invoice for something like this.

Now here's the point why I'm here. Small business owners need, in my opinion, to have a more effective way, and more direct communication, to learn about all these various programs that I kind of uncovered by grumbling and grouching around out there and making telephone calls to people. Because I really haven't found one kind of source that lays it all out for me, the various benefits that are available. And mostly it was at no charge.

And I sense in talking with a lot of other owners when I tell them like my OSHA story, that they still don't believe it and there's this look of fear on their face. You would be so stupid as to invite OSHA into your business like, what drugs are you on today?

And I even took it further by learning to bring in the Fire Marshall and I brought in my State Compensation people to look me over. And believe me, I go home at night and I'm worry free. And it amazes me that other small businesses like mine do not take advantage of these programs.

And I think it's a shame because in most cases either they don't know about it, or they fear it. And they fear bringing Government people, inspectors and stuff like that on board is going to backfire on them. The results of my own experiences have been outstanding.

In fact, I've gotten so motivated through the local SBA office I even signed up to be a business mentor to another small business to kind of help them and share some of this knowledge so that they can spend more time with their customers and less time being a busy administrator.

And I urge you, the panel, to explore ways of maybe doing a better job of marketing, advertising or promoting what I consider very excellent programs. And I've had nothing but fine results and I'm a very happy constituent, you might say, of all these things.

And I think you just need to hear this, that these programs do work out there if people are aware of them and will step up to the plate and take advantage of them. And that's really what I have to share with you. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you very much.

MR. GUTHERIE: Viola, could you tell them exactly how much money you have for marketing SBA?

MS. CANALES: Actually zero.

MR. GUTHERIE: Well that's the answer.

MR. REAGAN: Yes, what I'm saying is that there is kind of an implied negativity out there about funding of advertising and marketing and how to get the word out.

MR. GUTHERIE: And I'd follow it up by saying that I think that it's truly the private/public partnership. We have to have the private sector involved in order to be able to get the word out on what the public sector has to offer for small businesses.

CHAIR CHAVEZ NAPOLI: And I would just add that is why it's so important for you to fill out those appraisals again so that we can send that positive message out to Congress. And more importantly while we are talking about these kinds of programs we go out into our different States and communities and we advocate as well.

And let me just remind you that we have some excellent people sitting here. I'd like to just share with you that Tim from Hawaii, their State passed the first legislation on this kind of State Regulatory Fairness Board. And we have Tom here who has done that in Nevada.

So we have two people out of our five-member group who have gone far beyond their commitment of sitting on this Board to actively, aggressively let people know about this kind of program. Not just on the Federal level, but at the State level. So we are already doing that throughout the country and we just need more people like you who can send that positive message.

And thanks for coming today and giving us your time. Dr. Misra?

DR. MISRA: I would like to endorse comments made by Mr. Mike Reagan. And I share with you experiences of Dallas and Ft. Worth breakfast meetings. Mention should be made of all the others. Mention should be made of ECRC, Electronic Commerce Resource Center.

Now every business, small business is looking for means and ways how to develop your web page, how to be on Internet. So when these seminars are conducted, all the fears of the small business go away. So by sharing knowledge with them, all the fears go away and these small businesses become a better business. Other thing I would like to mention is that the American economy is depending upon the small businesses. And I firmly believe it that we are supporting the economy.

So we should absorb the knowledge given by Federal agencies and at the same time we should share it with our fellow small businesses. And it's a two-way traffic and if you believe you know that you are going to get all the help from the Federal agencies that's not going to happen. So it's a two-way traffic. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you. We have two more people who are signed up to give testimony. I'm not sure if we have anyone sitting in the audience that would like to give additional information that has not signed up. But I always like to run a meeting that's on schedule. And if we can move it ahead by all means we are being more efficient.

So we have two more people to call, Kevin O'Brien, from the Pascua Yaqui Tribe of Arizona. And thank you for inviting me to your State on my view from California.

MR. O'BRIEN: Thank you. I am directed by our Executive Council to read the following statements to you. I would like to thank the National Ombudsman and Regional Regulatory Fairness Board Members for the opportunity to address you today. My name is Kevin O'Brien. I'm employed as an economic development planner with the Pascua Yaqui Nation in Tucson, Arizona.

For the past eight months I have been working closely with the representatives of the US Small Business Administration to develop an application for the creation of a Small Business Investment Corporation (SBIC). As envisioned, this program would be available to all North American Tribes, Alaskan Native Corporations, regulated financial institutions and public and private corporations as a financing conduit for the establishment of commercialization and manufacturing joint ventures on reservation lands, providing Tribes with an avenue for diversification from dependence on gaming revenue. And important aspect of the SBIC program is the ability for participants in the fund to attain leverage of investment principal by a factor of up to three times the fund's equity.

In order to qualify as an SBIC, the principals who propose to manage the operation of the program must meet certain stringent regulatory requirements. This process involves an intensive

interaction between the applicants and SBA representatives.

It has been a pleasure to work with our SBA State Director, Mr. Robert Blaney, with the Staff Representatives of the Investment Division of the Small Business Administration in Washington, D.C., in particular, Mr. Leonard Fagin and Mr. Art Spivey.

These individuals have been professional in all respects and have gone beyond our expectations in providing much needed assistance in facilitating the process at each opportunity. They have done this despite the extremely limited staff resources available at both the State SBA Director's Office and especially at the Investment Division in Washington.

Such assistance is absolutely critical to the process of developing a successful application in actually establishing an SBIC. I wish to personally thank each of these individuals for their efforts on our behalf, and to encourage the U.S. Congress to continue to fund the programs of the Small Business Administration.

In particular, I would like to encourage Congress to increase staff funding for the Investment Division of the SBA so that the quality of assistance provided through this office will continue undiminished. Such programs strengthen the U.S. economy and help create economic and employment opportunities for countless persons.

By ensuring continued funding for the program, our elected representatives will demonstrate a commitment to ensuring the continued vitality of formation and growth of small businesses in America. More directly from our perspective, continued funding for this program is important to us since we are positioned to be the first American Indian Tribe to possibly have an opportunity to establish an SBIC.

The availability of adequate resources at the Investment Division of SBA will act to expedite the process and make our initiative a reality. Thank you.

CHAIR CHAVEZ NAPOLI: Thank you. Any questions or comments? Thank you. Now I would like to call Walt Lipski from Fox & Fin Financial.

MR. LIPSKI: Good afternoon and thank you. First of all, let me explain that Fox & Fin Financial Group is a leading merger, acquisition firm, and business brokerage firm. So we spend our day working with sellers, owners of businesses, and potential buyers. Further, I am the President of the Valley Board of Business Brokers, representing over eighty professional business

brokers here in Arizona, who are actively involved in the transaction of buying and selling businesses.

I'd like to take a moment to compliment you on the SBA program as it funds many of the transactions. And unfortunately, this gentleman had an experience that we seldom see. It's a very good program and it is very effective and it does help the transfer of businesses.

But I'm here today to present the case for the repeal of a recent tax provision in the Tax Relief Extension Act of 1999, which was signed by President Clinton on December 17th of this year. There's a little known provision in this bill that basically eliminate the installment of accounting for the gain in a business purchase.

Now what this means in layman's terms is that this small business owner, the person who is driving this economy, has worked all his life. Now he is going to sell his business, but the law now requires that he pays the whole tax on the gain of that sale of that business in the year that it's sold and not over the years as he's getting paid for it in an installment sale situation.

So the question arises; and I do have a chart in the documents handed to you. There are three criteria. The first criterion is that it's an asset sale versus stock. Small businesses represent, based on the statistics from a SBA study, ninety-one percent of the businesses.

These are businesses with two million dollars a year in sales or less, represent ninety-one percent of the businesses in this country. And it's a very realistic expectation that at some point in time, whether it be five or ten years that a business owner's going to sell his/her business.

Okay, so if that seller is going to sell the business, unlike the Cisco or Microsoft, or anyone else, the chances are that they're not going to be able to sell their stock with the business. In all likelihood, small business will have only assets of the business to sell.

Furthermore, the businesses in this economy are service oriented. They do not have the plants and equipment and the hard assets that can support collateral for a loan the size that may be needed to facilitate this transfer of the business.

So what happens is that the seller is often asked to finance part of the sale of the business. That's the installment note portion. That's the second trigger mechanism. The third trigger mechanism is that the business should be on the approved accounting basis.



Well any business of substance over a period of time generally is using accrual accounting because it attempts to match expenses and revenue and is a real time accounting system that provides meaningful management reports.

So in essence all of the businesses, maybe not all, but a big percentage of them are faced with having to pay the tax up front. Now we use an example in the case study here, which is a real live example. We've changed the names and rounded the numbers.

But quite frankly, we've got a gentleman who employs eight people. He sells his business for six hundred and twenty thousand dollars. He gets two hundred thousand down for simplicity's sake. He's going to take note payments of sixty thousand dollars a year.

Well in that year that he sold the business, and many of these businesses have a small basis, let's assume that the gain, most of that sale price is the gain. He could be facing a tax bill of three hundred thousand dollars. He's only got two hundred thousand dollars in down payment. That's a very realistic, that's a very real situation right now in the business marketplace over the last two to three months.

I would urge you to work with all the small business groups that are petitioning Congress and the Treasury to repeal this provision. Because there are only three things that can happen to a business. It can either be sold, inherited by another family member, or it can be closed down. There are no other options.

You can't put it on hold. You can't stick it in the icebox. And so what has happened is that the people that are responsible for creating the jobs in the community, building these jobs. These businesses need to be transferred to new owners that can bring new life blood, new capital, new ideas, new skill sets and help that business to grow, which we can't do today.

So I thank you for allowing me to state the case of this particular tax provision. And hope that somehow you may have an effect that would turn that around. Thanks very much.

MR. GUTHERIE: Thank you. Any questions? At this time also I'd like to invite any other testimony from any small businessperson or any advocate here for a small business that would like to address our Board. Are there any comments or questions? We'd be more than happy to answer. Sir, would you state your name for the record?

MR. TESTA: My name is John Testa. And I'm the Safety Director and Risk Manager for Police Construction. Home based out of Phoenix. Mainly doing work in Arizona. And actually I don't have

a prepared speech or anything, I'm just here to make a comment on Arizona Department of Health Safety, which we all call OSHA.

There are two gentlemen who are in the office. One is Darrin Perkins, who is the Director. And the other is Pat Ryan, who's the Assistant Director. And I'm here to compliment those two gentlemen and their staff. They're doing a great job.

We always use so many negatives about OSHA or the Safety Director. I don't only look forward to them coming out on the job. Am I afraid of them? No. Am I preparing for them? Yes. My job is like their job, to prevent accidents from happening in the first place.

They attend our association meetings. I'm a member of the OSHA Advisory Committee. We exchange ideas. We communicate. And they've done a great job and I hope that the money will always be there for them to continue. I like their idea of these focused inspections where they come out and just check a few items. And if you're performing well they're not going to stay with you for two or three days.

They've been under a lot of pressure, especially with some fatalities they've had in the underground work. They're out there investigating everything. They deal with a lot of negatives, just like all Safety Directors and safety people.

And they're trying to make positives out of these negatives by having a public service announcement regarding trenching, again by participating in the associated general contractors meetings where we get twenty-two or twenty-five safety people there, but they're representing thousands of other people.

And my hard hat is off to them. And just want to congratulate and thank them again.

MR. GUTHERIE: Thank you very much.

CHAIR CHAVEZ NAPOLI: Is there any more public testimony from small business members here? All right, then what I would like to do is introduce Joseph Rees from the U.S. Customs Service.

MR. REES: Good afternoon. I'm Joe Rees. I'm the Trade Ombudsman with the U.S. Customs Service in Washington. And I bring you greetings on behalf of the Commissioner of Customs, Raymond Kelly. He's been a strong supporter of the implementation of SBREFA and in particular the Customs RegFair Program.

It's a pleasure to be here in Tempe. Thank you for affording me the opportunity to meet the new National Ombudsman, Ms. Gail

McDonald, and the Regional Board Members. I would like to thank you for allowing me the privilege to speak to you regarding the status of the Customs RegFair Program and our implementation of the 1999 recommendations.

In the beginning of March I completed my first year of service with the Customs Service. One of the first issues I faced as the new Trade Ombudsman was the implementation of a RegFair program for Customs. Through my former positions I had gained some familiarity with Customs, however, I've now learned first hand the Agency's wide ranging task of regulating international trade.

U.S. Customs Service ensures that all imports and exports are done in compliance with U.S. Laws and Regulations. The Agency itself is two hundred and eleven years old and has grown to more than nineteen thousand employees who serve three hundred and one ports of entry.

For the Fiscal Year 1999, Customs processed over twenty-one million entries. That was an increase of seventy-one percent from 12.3 million recorded in 1994. The value of these imports was nine hundred and seventy-seven billion dollars in FY 1999. And there were one hundred and thirty-seven million conveyances of cars, trucks, rail cars, airplanes, and four hundred and eighty million passengers processed by Customs in 1999.

In addition, the number of importers is also growing rapidly. In the Fiscal Year 1999 we had over four hundred and forty-five thousand importers. Of this number the top one thousand importers account for fifty-nine percent of the total import value. Conversely, there were also one hundred and seventy-five thousand one-time importers, accounting for less than one percent of the total value.

At Customs ports across the nations we collect and protect the revenue, guard against smuggling, and we're responsible for some of the following areas. Assessing and collecting duties, excise taxes, fees and penalties. Interdicting and seizing contraband, including narcotics and illegal drugs, processing persons, baggage, cargo and mail, and even administering certain navigational laws. We are also responsible for detecting and apprehending persons engaged in fraudulent practices designed to circumvent Customs and related laws.

U.S. Customs Service is the guardian of our nation's borders. America's front line where we not only enforce our laws, but also are responsible for upholding the laws for over forty Government agencies. A number of these statutes are quality of life issues and they include such things as motor vehicle safety and emissions controls, Freon smuggling and the protection of endangered

wildlife.

Other laws safeguard American agriculture, food safety and consumer safety. Notwithstanding this complex mission, we have worked on developing a comprehensive and meaningful program that will address the concerns of small businesses as they relate to Customs and international trade.

I'd like to take this opportunity to expand on the efforts and commitment of the Customs Service to embrace and implement SBREFA as well as the RegFair Board recommendations.

Recommendation number one, for the 2000 report, the Congress suggests the development of regulatory fairness protocol for Federal Agency staff who undertake enforcement or compliance activities involving a small business.

In developing a regulatory fairness protocol for Customs, we've taken the viewpoint of having our employees educate small businesses on the requirements of importing and exporting. In hope of using preemptive measures because the laws we enforce apply to all entities, regardless of their size.

Customs is achieving this through the following initiatives: Customs personnel are making small businesses aware of their rights to comment on our enforcement and compliance activities.

Auditors are providing this information in pre-audit packages when notifying small business of a pending audit.

Section 223 under SBREFA requires agencies to establish a policy of program that reduces or waives civil penalties. This was accomplished by Customs Office of Regulations and Rulings, Penalty Branch, which issued procedures regarding mitigating circumstances for the waiver or reduction of penalty for small business whenever possible.

Utilizing the Federal Register for Publication of Proposed Regulations, Customs provides small businesses with the opportunity to comment on those regulations that may have an economic impact on their businesses. Customs considers these comments and makes an impact assessment before making the regulations final.

The Agency has begun posting advance copies of proposed regulations on our website prior to the official publication in the Federal Register in order to receive comments. Small businesses can contact import specialists at any Customs port for inquiries regarding import requirements and importers' responsibilities.

They can use the Customs website to research information on importing or exporting requirements and procedures. The website has designed a page expressly for the small business that is dedicated to SBREFA and furnishes information on how to contact the RegFair representative for unresolved problems and unanswered inquiries.

Customs also has a formal binding rulings program whereby small businesses can request a classification ruling for any commodity prior to importation. This ensures uniformity and lessens the chances of penalties and other violations due to improper classifications.

With four hundred and forty-five thousand importers conducting transactions, it is virtually impossible for Customs to know the identity or the size of the company at the time of importation. I'll give you an example. In the City of Long Beach alone, at the Port of Long Beach in Los Angeles, a container hits the dock every fourteen seconds. So that you would know, they're coming in pretty fast. And that is why our goal is to reach out to the small business community in advance so that we can help them to understand the complexity of importing into the United States. We hope to accomplish this through electronic means as well as joint seminars, for which we have asked the Small Business Administration to partner with us.

The local ports have been asked to initiate contact with small businesses involved in international trade to further their understanding of Customs operations and procedures.

Recommendation number two stated that agencies should establish avenues through which small businesses can expeditiously raise the concern that enforcement or compliance action would threaten the economic viability of the business. As the Trade Ombudsman and the RegFair representative I serve as the designated point of contact for the small business to voice their issues or concerns.

Other resources are also available. The small business may raise their concerns and requests for expedited actions beginning at the port level. So, they have the option of seeking assistance from a Customs Management Center, up to the Customs headquarter level before speaking with the RegFair representative.

We try to make the trade aware of these avenues through various means such as local trade meetings, town hall meetings with the Commissioner, national and local trade associations, seminars, partnered working groups with the trade conferences and the Customs website with pages dedicated solely to SBREFA. In addition, we have an e-mail address for direct contact to the Trade Ombudsman RegFair representative.

Situations in which a small business has been issued a penalty for a civil violation, mitigating procedures are in place to have those fines waived or reduced by the reviewing officer. In circumstances, which could conceivably threaten the economic viability of a small business, if certain requirements are met, payment arrangements can be established through the Accounting Services Division with the Customs National Finance Center in Indianapolis.

Recommendation number five pertains to Federal Agencies providing formal training for all enforcement and compliance staff on the regulatory fairness rights of small businesses, including the Regulatory Fairness Program. As the RegFair representative for Customs, my office is responsible for ensuring that all Customs employees are aware of and trained on SBREFA in order to attain a high level of compliance.

Our mission for providing training has been an ongoing process beginning with the Customs-wide distribution of an internal information notice. This was used as an initial introduction to SBREFA to all employees. It contained information on the requirements of the law, and in particular, the responsibility of each employee to notify a small business of their right to comment on our enforcement and compliance actions. This document stressed that it is the responsibility of the Agency to ensure that small businesses are provided a non-retaliatory environment where small businesses can freely exercise their right to comment. The next step involved incorporating training on SBREFA into our basic classes held at the Academy in Glen Cove, Georgia.

The class syllabus includes a lecture addressing personnel about being sensitive to the unique needs of small businesses, which contain the following elements: Why SBREFA was established; Creation of the National Ombudsman and the ten Regional Fairness Boards; Definition of a small business; Requirements of SBREFA and the responsibility of the agency to comply;

Rights of small businesses highlighting the notification statement;

Responsibility of the agency to create a non-retaliatory environment; and

Customs RegFair Program and the role of the Trade Ombudsman as the RegFair representative.

The class includes materials such as handouts of the law, the information notice, and the policy established to mitigate civil penalties for small businesses.

In addition, my office is responsible for establishing a continuous line of communication with the training office to furnish feedback on questions proposed in the classroom.

Currently, the Agency is developing a video on SBREFA that will be distributed Customs-wide as a learning tool to reach employees in the field. Besides furnishing the requirements of SBREFA, the objective of the video will be to introduce the RegFair coordinator who will talk about Customs RegFair program, and the responsibility of the Agency to comply with SBREFA.

And finally I would like to comment on Customs RegFair program. As previously mentioned, Customs is using preemptive measures because the laws we enforce apply to all entities regardless of their size. That is why the main focus of our RegFair program is outreach, where we can educate small businesses on the requirements for importing and exporting.

We're using electronic means, we engage in trade association conferences, and we ensure the distribution of Customs publications. And as I said before, we have proposed joint initiatives with the Small Business Administration.

However, Customs has placed the most important aspect of this program on the interaction with the trade community at the port level by all disciplines of Customs. The Customs RegFair program is made up of several different portions and I will briefly highlight some of these areas.

Employee awareness. Notification to employees to ensure awareness of SBREFA requirements, including a retaliatory-free environment. The Agency's responsibility for implementation will be addressed in the information notice, briefings for all disciplines, training curriculum at the Federal Law Enforcement Training Center, production of training video for distribution Customs-wide, postings to headquarters and CMC electronic bulletin Boards, and notification to small businesses of their right to comment. We've identified the following mediums to advertise the 188 RegFair phone number for small businesses to use when commenting on these activities. Our Customs website, our publications, and our Customs form where applicable. Reduced penalties for small business violations of 19USC1952. A general notice was published in the Federal Register, which set for circumstances and procedures, whereby the assessment of a civil penalty under the provisions of 19USC1592 will be waived for violations committed by small businesses. This notice is readily available on the Customs website under the pages dedicated to SBREFA.

Trade awareness. Customs has identified the following avenues to publicize the Agency's commitment to

SBREFA and our emerging regulatory fairness program. We will identify and develop partnerships with trade associations, whose membership includes small businesses involved in international trade. We will also partner with Small Business Administration to conduct joint seminars for the small business trade community. In addition, we will continue to attend the Regional Regulatory Fairness Board Hearings scheduled throughout the year as we are invited.

However, we are looking into the possibility of having field personnel attending hearings that are scheduled in close proximity to a port as an opportunity for them to observe the process and listen to small businesses provide testimony on their interaction with regulatory agencies.

Under SBREFA our RegFair program is evolving. And we feel confident that we are moving in the right direction. Commissioner Kelly is very supportive of SBREFA and is committed to Customs implementation of the recommendations to the extent possible within the confines of the law to ensure that we are in compliance.

Overall, Customs has maintained a good longstanding relationship with the trade and the Commissioner has been very aggressive in improving upon that partnership with the international trade community, which includes small businesses. This has been made evident in his numerous appearances at various industry and trade conferences.

I would like to thank you for allowing me the opportunity to provide you with Customs plans and goals for implementing the 1999 recommendations and our RegFair program. Given the magnitude of the job that Congress has assigned to us we're proud of our accomplishments so far.

And we will continue to work towards positive changes in our methods and partnerships within the trade community. We at Customs look forward to a continuing dialogue with Ms. McDonald to ensure compliance with SBREFA. And would like to express our appreciation to her staff, in particular Mr. John Greiner, Mr. Gary Peele, and Ms. Susan Kramer for their assistance and guidance. Thank you very much.

CHAIR CHAVEZ NAPOLI: Thank you so much. Are there any questions from the board?

MR. GREINER: I want to thank Mr. Rees and his staff. I've been very interested in getting the Agency to do its best to comply as fully as possible with all the recommendations that the Boards have put forward.



And I think if any of the members of the audience look at the Executive Summary will see that our evaluation of Customs in the past year indicates that this agency did quite well in particular areas.

We really try to make sure that the agencies do well. But we put them to task to do well. I think every rating that we give is an earned rating. On the protocol, you mentioned, just so that the small business owners and advocates here understand, every small business is required to comply with the law, but your protocol also allows for mitigating circumstances and reduced penalties, which is one of our major concerns.

So I'm sorry, I'm forgetting the chemist's name that testified earlier, his name sir? Tom, Tom was talking about the exposure, the amount of penalty that Customs assesses against a small business, would be commensurate with the amount of product small business has imported. So to some extent, there is some scaling in place.

On another note, it is very important to realize that small businesses have much harder time in terms of the amount of resources they have to devote as a percentage of their profit to compliance.

MR. REES: Sure, we understand that. And the Commissioner is very sensitive to the fact that Customs has an awesome amount of power. By that, I mean, at the border, we do not need probable cause to stop and search anything or anybody for any reason. We do have a great deal of responsibility in keeping our borders safe.

So if it is tainted food coming in, we don't care whether it's a large business or a small business. We're going to stop the food. I spend a great deal of my time traveling around to the ports and I find to my pleasure and to my delight that the Customs officials at the ports tend to spend a disproportionate amount of their time with small businesses.

And I think they believe that the large Customs House brokers and the large businesses that are bringing in thousands of containers a month should know the law. However, in dealing with the small business who may come in once a year or once a month and who has difficulty, we spend extra time, to make sure that they do it right.

And in some cases we get sideways with NAFTA, where we have a tripartite agreement among three countries, and there's nothing we can do. I mean, it's a negotiated agreement and we have absolutely no leeway at all. Some of the penalties are rather

Draconian.

And it's a concern of mine because a lot of small businesses are taking advantage of the NAFTA Treaty for doing business in Mexico and bringing things back. I mean, if they don't do it just right they can really get hammered. So we're setting up a series of seminars along the border to make sure that small businesses have an opportunity to know the proper way to bring in goods.

CHAIR CHAVEZ NAPOLI: Is there any comment?

Oh, Mr. Rees, I would just say that when I worked on the U.S./Canadian border for awhile, I appreciated the joint programs of the St. Lawrence Seaway we were able to have with Customs.

As you know, under this program we did pre-inspecting which helped small businesses that were using the Seaway save time and money in meeting the regulations. And I was always there, and in fact, we even got a Hammer Award.

MR. REES: Is that right?

CHAIR CHAVEZ NAPOLI: Yes. We're all interested in reaching out more effectively to small business and I see that you have put together a varied program and opened yourself up for a lot of contact. I wondered what medium was giving you the most calls or contacts with small businesses? Is it e-mail or website?

MR. REES: It's both. I mean, I would say we have a page now that is beginning to get some hits. And they're increasing over the month, month by month. But it comes in every way. Phone calls, letters, emails. I get people giving me their cards when I travel.

CHAIR CHAVEZ NAPOLI: Uh-huh.

MR. REES: the Commissioner is a big believer in technology and he wants every senior official in Customs who is responsible for a page on our website to make sure that their web pages are updated regularly and can be easily accessed by public.

CHAIR CHAVEZ NAPOLI: Great. Thank you very much. And now I would like to applaud you for your efforts. Thank you.

(APPLAUSE)

CHAIR CHAVEZ NAPOLI: When we started this Board it was really hard to get the message out. So when you reach out to the small businesses to educate them on the import and export requirements so that they could avoid paying penalties later, you accomplish exactly what this board was established to do. And that helped us

succeed not that gotcha method. So we really appreciate that.

Also, the last person that I will be calling is Art DeCoursey from OSHA.

MR. DeCoursey: Good afternoon. A pleasure to be here. I just want to say that this makes the third year for me to be at these hearings since they started. The first year I had the pleasure of doing all ten. And the last couple of years have been, at the request of the Boards. But it's a pleasure to be here today.

I know that you all have received a copy of the testimony previous to this, and also I know that your time scheduled sometimes gets very tight with these meetings and people are running to catch planes and etcetera. So I'll try to be as brief as possible and try to highlight some of the things for you rather than having everybody running out the door at the last minute.

I also want to take this opportunity to introduce to you today two people with me. One is our Deputy Regional Administrator for Region IX, which covers Arizona and California, and that is Chris Lee. Arizona, as you know, has a State OSHA program, unlike some of the other States.

And we have with us today from the Arizona Division of Occupational Safety and Health, Mr. Patrick Ryan, who is the Deputy Director. He is back there. I want to recognize him. I'm sure he was very happy to hear Mr. Reagan's comments today. I know I was.

Very briefly, I'd like to touch on a couple of things. It was three years ago, actually, next week, that I was appointed as the first ever Small Business OSHA Liaison. I believe that over this time period, OSHA has come a long way in terms of trying to change its image, so to speak.

If you go through the folder that we gave you, you will see OSHA, New Ways of Working. That is a message that Secretary Jeffers stresses very strongly. And we are trying to reach out to the small businesses and make them aware of the requirements they should be in compliance with, instead of pursuing the gotcha method, as Kathy pointed out just minutes ago. And we have come a long way in that three years, I believe.

And of course someone mentioned earlier that change takes time sometimes. It flows all the ways down to the bottom of the barrel, but it's happening, I can assure you. And I believe that OSHA, under the direction of Secretary Jeffers, has not only worked hard to put the SBREFA recommendations in place, but also has gone even further in trying to implement President Clinton's

initiative that requires agencies to become more friendly with the small business community.

During my first year as a liaison for OSHA I was able to convince the department, after spending some months on the road and talking to the small businesses, to come up with a brochure that would address series of frequently asked questions for small businesses. This brochure just came off the press, and you are the first ones to see it. It was FedExed to me last night. The new brochures are on the table out there. This brochure addresses every issue that we have discovered in the last tree years. And if you look right in the center page, it talks about SBREFA and wants to make sure that people are aware of what SBREFA is all about. And also you will find some recognition in terms of the small business development centers.

One of the things that I've tried to accomplish over the past three years has been developing new partnerships. And I think Small Business Development Center is the key. That is where the small businessperson goes. They're not going to walk into an OSHA office. They're not going to walk into an IRS office or EPA office to ask for help because they're afraid of us.

But they would walk into an SBDC, and that is why we intend to reach out to the small business through partnership with the SBDC. For example, next week, we will be mailing fifty thousand copies of these brochures to all SBDC across the country.

Over the past two years, I have participated for the first time OSHA ever has participated in the Small Business Development Centers' annual meeting. Where I conducted two presentations last year. I will proceed to do so hopefully in this coming year.

And next Wednesday, in Washington, D.C., we will be holding our second ever small business forum, where we'll have demonstrations of some of our programs. We will talk about some of the questions and answers that people may have on getting help from OSHA. Especially our consultation program, which is free. The gentleman talked about it earlier.

So we've invited quite a few small business trade associations in the D.C. area to attend. We've got a good response. And we'll be giving a four-hour presentation next week. In fact, I think we might have sent invitations to all the Board members as well. But I know some people have limited time to travel, especially with the small business that you run.

But in conjunction with this forum, our last year's forum was so successful that we held approximately eight to ten forums across the country. We'll be asking each Region to do the same. And

they're doing pretty much what we are doing in Washington.

One of the highlights was in Atlanta Region that the forum was entirely conducted in Spanish. Because they felt the need was there for the Spanish speaking population to tell them about OSHA. That was very well attended and it worked out very well. That's being duplicated.

We're doing a breakfast series in Region I where people decided what issues to talk about. And for each month, once a month, they meet at seven-thirty in the morning and the group has become so big they've had to find a bigger location because people are interested. They're getting free information.

In partnership with the Home Depot Corporation, we are trying to institute a pilot in two Regions within the next few months, where we will go and send an OSHA person in from our area office who will participate in their training programs. They do training for the public for free on how to do different construction jobs.

We'll talk to them about tying in safety issues with that. And they're very excited about doing this. So if that's something that works in those two pilots then we hope to duplicate that with some of the other major companies across the country. So once again, partnership is our key that we're working on presently.

Last year, the Ombudsman Office, recommended (recommendation number six) that the Federal Regulatory agencies try to recognize employees who go out of their way to assist small businesses. So Assistant Secretary Jeffers has developed a new award, and it's called the Outstanding Achievement Award for Small Business Outreach for OSHA.

And we'll be making a presentation next week at the forum to ten OSHA employees across the country who have demonstrated, by the programs they've instituted, that they're working with small businesses. So that's a first and that's a part of the recommendations from last year.

We're also updating our CD-ROM, which I think you got last year on technical advisors. And I've also included in your packet today another CD, and this is on a very hot topic of ergonomics. Presently, Public hearings are going on in Washington on this issue. They'll be starting in Chicago in a couple of weeks, and then in Portland.

We've had seven thousand hits on the website in terms of comments on that particular ergonomic proposal. And as you're well aware, this initiative has been studied for ten years. Congress puts a range on it for a number of years, but hopefully we will have the post standard ready by the end of the year for people to take a

look at.

And all of this involves small business input. We're looking all the time for new ways to develop partnerships. And I think that's what we're focusing on primarily. I heard someone talking earlier about the compliance assistance.

In our budget this year we were so successful that Congress gave us the money, and we're going to put into place forty new compliance assistant offices across the country whose sole function is to work with small businesses to comply with OSHA laws. We got twenty-two positions last year and I think it was twenty. We got forty this year.

So every Region in the country will have a compliance assistant office whose main focus is to work with small businesses. And that says a lot about what we've been able to do in a very short period of time.

Each recommendation is attached, and I'm not sure if you want me to go through and read all of these for you. I'd just like to highlight a couple if I could. And if you have any questions on others I'll be more than happy to try to answer them for you.

But I think in terms of recommendation number one, I'm not going to read it for you, I'm sure you all know what your recommendations are. We do make extensive use of pilot projects of new programs, whenever feasible.

An example of this would be OSHA's instruction and guidelines for the point of operating and guarding of power press brakes, which sets forth a new enforcement. And the guideline was developed in partnership with the sheet metal industry and affected employee groups as well. So that's an example of recommendation number one.

Sometimes there are some legal and statutory structures that may prevent OSHA from entering into different types of partnerships, which we have to also take into consideration as well.

Under recommendation number two, you talk about notice of violations and allowing the small business reasonable deadline to come into compliance. I think that was covered a little bit earlier in terms of the opportunity for free assistance from our consultation program, which comes out of our budget.

Where someone can come in and do an audit of your place and the only commitment the small business has to make is that in thirty days they make the abatement or make the changes that need to be made. One thing that people don't realize is that when you have

this consultation service come in, they're not allowed to provide to OSHA any of the information of that audit, unless the company doesn't comply within the thirty days of the audit. So we don't see that information. They're not allowed to give it to us. We can't ask for it and they're not going to give it to us unless, again, there's a problem.

Recommendation number three, feasible compliance guide and this is small business again. We have been working with partners to develop all kinds of guidelines. We have developed a small entity compliance guideline and other assistance material such as fact sheets and most frequently asked questions by small business. And these tools are written in performance language and do not dictate particular methods of abatement or compliance. However, they do provide information in many different ways small business can comply.

Recommendation number four is about delegating enforcement authority to the States or other intermediaries. Such is the case here in Arizona. We have a state program.

And I think you realize that under the OSHA Act the State can establish it's own program. And through the mechanism of OSHA approved, we have to approve their plan. And they are; without the approval of the State plan States are preempted from developing and enforcing work by standards and issues that OSHA regulates.

However, we do not delegate this authority to the States. Rather, States operate their programs under authority of State Law. Their program has to be at least as effective as the Federal Government.

Recommendation number five, about prohibiting employees from giving false information to the government with the intention to retaliate against employers. All information reported to OSHA by employers, employees must be accurate and truthful. All complaints reported to OSHA will be evaluated according to the local area office procedures, including the criteria outlined in the field inspection manual.

Last year one of the recommendations we talked about was notification. The field inspectors are instructed to give notifications to small businesses about SBREFA. How they can comply, and what they can do if they're not happy with it. The other thing is that over the past two years we've reduced the penalty for small business based on the size of the business, previous experience, and those type things. So that was part of the recommendations.

Recommendation number six, the Agency should carefully evaluate,

in partnership with affected industries, the use of voluntary standards before considering or implementing humanitarian reception. OSHA is required by law to use a consensus standard. We evaluate all relevant consensus remarks, regulatory appropriability and usefulness of the regulations before embarking on new rule making process. A good example of that right now is the ergonomics proposal and the input we're getting from that.

Recommendation number seven, Federal agencies utilize their internal offices that work with small businesses to inform small businesses of their rights. Again, we talked about that in SBREFA, and channels that we use to notify the small businesses of their rights. The inspectors in the field are all aware of it.

And recommendation number eight, agencies should conduct reviews of their implementation of SBREFA. And at this time we have no formal policy in place to conduct such reviews. However, this is something we're going to look at very carefully over the coming year. But I will add, as the small business liaison, I am constantly reminding all of our directors, all of our field area offices about the recommendations by the Ombudsman Office. And I am getting a lot of input back from them as well. So I think most people are aware of it. If they're not aware of it by now, they've not been paying attention.

Recommendation number nine, reviewing and reducing the reporting requirements and limiting duplication of requested information that burdens small businesses. We have several different projects underway at present that reduce or eliminate paperwork. And such a project is the status improvement project. And this will project proposes to revoke several OSHA regulatory requirements that duplicate other agency requirements and are no longer deemed necessary.

Under another project, we're going to consolidate the procedure requirements in many different standards of receivable with consistent record keeping. We already have a policy in place that exempts small businesses under ten employees from most OSHA record keeping requirements. So we already have that in as part of the paper reduction work done.

And the last recommendation talked about trained staff for inspections or compliance audits that are well versed in the industry. OSHA compliance officers receive numerous hours of training in a wide variety of subject matter, both in safety and health standards. And the OSHA compliance officers come from different backgrounds. They come from military, personnel, health and safety. And they bring with them a lot of knowledge.

But you should note that the great majority of OSHA's standards



are not specific to particular industries, but to rather hazards, machine guarding, electrical hazards, and air contaminants. And they would be found in different types of industries all across the country.

For example, a compliance officer may be more familiar with the logging industry as it is a prevalent industry in Maine. And the compliance officer in Washington, D.C. would be more familiar with the construction industry. Yet either one would be able to identify the safety and health standards in their industry.

As for OSHA cooperating with small businesses, and not just focusing on sanctions, OSHA has made a concerted effort to cooperate with small businesses. OSHA now provides every member of those compliance staff with a copy of the OSHA instruction, which responds to recommendation number seven.

Again, these are just a summary and if you have any question, I'd be more than happy to answer for you. In closing, let me just say that I really believe OSHA is very committed to helping the small business. And also, I would like to mention that the new small business web page is getting many hits.

Last week when I returned from Anchorage, there were four hundred and fourteen e-mails waiting for me. So again, people are taking advantage of this system. Maybe it is just because it has made it so easy and convenient for the small business to step forward with their questions or problems that they might be facing them. In fact, one of the messages I checked today was from a couple who are trying to start their own business, and they wanted to know about the regulations that they must comply with.

And I want to thank the Board for the opportunity to be here again today. It is always a pleasure to be here and I would be glad to respond to any question that you may have.

CHAIR CHAVEZ NAPOLI: Thank you Art. Are there any questions?

MR. GUTHERIE: Just one question. In reference to ISO 9000, we have a gentleman here that wants to know if there is any new program that can help an ISO 9000, particularly as it affects the smaller (interposing)

MR. DeCoursey: Not that I'm aware of right now. I also would like to mention that the Department of Labor has a small business office under the direction of Jim Robinson. And Tom Hicks is here today representing that office as well.

CHAIR CHAVEZ NAPOLI: I was wondering, if there are any new technology that makes the inspection process less time-consuming.

I remember, the old air quality standards, indoor air quality standards we used to have.

MR. DeCoursey: They're trying to develop all kinds of new technologies. And again, they're keeping it simple. One of the things that the Vice President talked about was the plain language initiative, requiring all our regulations to be written in plain language so that the average person doesn't have to go out and hire a lawyer to interpret what the rule is.

MR. DeCoursey: But, you know that plain language works very well. Then of course under the President's directive we have to have all of our regulations done in plain language. And we have to also go back and review within the next two years the old regulations and find out which ones have to be re-written as well. And I think most people I've talked are very happy with this change.

I think using the website, obviously, has become a big hit in terms of getting questions and information. And if you go to our website or take a look at the CD-ROM, for example, on logging a respirator, it's a step by step process that the average small business person can sit down and find out, within fifteen or twenty minutes, what type of respirator they need for their business. So we are trying to develop more and more of these CD-ROMS.

And also I should mention that IRS, EPA and myself are trying to come up with a CD-ROM that would put a whole package together that represent different agencies, so that people wouldn't have to sift through six different ones.

CHAIR CHAVEZ NAPOLI: Okay, great.

MR. GUTHERIE: I really want to congratulate Vice President for his efforts that he has undertaken in support of the small businesses. Not withstanding just the language changes that you made, but also the point that our gentleman earlier made in terms of compliance and assistance.

I think that OSHA has changed so dramatically and for that, this agency deserves credit. I was going to ask you the question about your partnerships, and recognition of the SBDC program. Has OSHA made any attempt to establish any sort of a grant program with the SBDCs to disseminate the information similar to the program that EPA has implemented?

MR. DeCoursey: To my knowledge, not at this point. But I will tell you that we've had a meeting, in fact the office of small business has had a meeting with the very departments within the

Department of Labor. They sought out funding for this year's congressional budget that would place a person in the Department of Labor, small business type, into an SBDC to answer the questions.

Now I'm not sure of the status of that. But other agencies are looking at that. That would be the best way for us to go. One stop shopping basically is what you're talking about. And again, someone walking into an SBDC wouldn't want to sit down with someone there from the Department of Labor.

MR. GUTHERIE: That's proven to be very successful at EPA.

MR. GREINER: I guess you know that, from our perspective, we are very concerned with the effectiveness of compliance assistance, and it seems like in Arizona, at least from what we've heard so far, you guys are doing an excellent job. But perhaps in some other States, there are some national business associations that have this concern as well. In cases where state OSHAs aren't as effective in terms of small business regulatory fairness, we're wondering if perhaps OSHA would consider regulatory fairness issues when reviewing these plans to make, try to bring the States along.

MR. DeCoursey: I mean that is an issue that can be raised with the head of the program in Washington. I would bring it back to the Federal State Operations Board.

CHAIR CHAVEZ NAPOLI: All right, and thank you. What I'd like to do now is very briefly, because some of us have to catch flights. If there are any comments or closing remarks from any of the Board Members?

MR. GUTHERIE: I'll just make one quick comment. I really want to thank the people who have stayed here today. We started this three hours ago. And for those who stayed we have a drawing for a giveaway. Here the SBDC is giving away some prize I understand, for those who stuck around long enough.

I want to thank the SBDC for making this opportunity available here at the Community College. Thank you very much. And for all the work you've done in putting this together. And for everybody who has participated here I want to thank you as well.

CHAIR CHAVEZ NAPOLI: Thank you. And what I would like to say is it's very important for us to listen to what your comments are and again forward them on to Congress. So please fill out those appraisal forms for the good, the positive and also the negative so that again we can be successful and be in a partnership.

As you can see with OSHA, and with Customs, we are in a partnership and we are not on opposite sides. And I think that since we attended White House Conference on Small Business in 1995, we have really seen some positive changes. Thank you very much. Gail?

MS. McDONALD: Well I'm delighted. This has been a learning experience for me, as I knew it would. All of you have brought a great deal to this hearing, and I know you have many other responsibilities and duties. So it is always a sacrifice to do that. But thank you. We will try to represent your comments and your interests in a fair and full way. And we look forward to this continued partnership.

CHAIR CHAVEZ NAPOLI: Yes.

DR. MISRA: I would like to give credit for the CD-ROM, which is disseminating a lot of knowledge, and a lot of information about how to do business. That was distributed last year. The US Department of Commerce, MVDA, The Small Business Administration, and National Institute of the Standard and the Technology have prepared it. So look for the CD-ROM. It's a free of charge. And it should be called Bible of the small business.

Thank you and God bless you.

CHAIR CHAVEZ NAPOLI: Thank you very much. And now this meeting is adjourned. Thank you.